

Exhibit 8

JOHN MCELHONE
MARTIN TANKLEFF vs. SUFFOLK COUNTY

October 30, 2014

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1
2 UNITED STATES DISTRICT COURT
3 EASTERN DISTRICT OF NEW YORK
4 -----

5 MARTIN TANKLEFF,

6 Plaintiff,

7
8 vs. Case No. 09-cv-1207
9

10 THE COUNTY OF SUFFOLK, K. JAMES McCREADY,
11 NORMAN REIN, CHARLES KOSCIUK, ROBERT DOYLE,
12 JOHN McELHONE, JOHN DOE POLICE OFFICERS
#1-10, RICHARD DOE SUFFOLK COUNTY EMPLOYEES
#1-10,

13
14 Defendants.
15 -----

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18 DEPOSITION OF JOHN McELHONE

19 THURSDAY, OCTOBER 30, 2014

20 10:00 a.m.
21
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23
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25 Reported by: Adrienne M. Mignano, RPR
Job Number: 227414

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October 30, 2014

10:00 a.m.

Garden City, New York

Deposition of JOHN McELHONE, held
at 666 Old Country Road, Garden City, New
York, pursuant to Notice, before Adrienne M.
Mignano, a Notary Public of the State of New
York.

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A P P E A R A N C E S:

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BY: BRIAN C. MITCHELL, ESQ.

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3 IT IS HEREBY STIPULATED AND AGREED, by
4 and between the attorneys for the respective
5 parties herein, that filing and sealing of
6 the transcript be waived, and the same are
7 hereby waived.

8 IT IS FURTHER STIPULATED AND AGREED
9 that all objections, except as to the form
10 of the question, shall be reserved to the
11 time of the trial.

12 IT IS FURTHER STIPULATED AND AGREED
13 that the within deposition may be sworn to
14 and signed before any officer authorized to
15 administer an oath, with the same force and
16 effect as if signed and sworn to before the
17 Court.

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2 J-O-H-N M-c-E-L-H-O-N-E, called as a
3 witness, having been duly sworn
4 by a Notary Public, was examined and
5 testified as follows:

6 EXAMINATION BY

7 MS. FREUDENBERGER:

8 Q Good morning, Chief McElhone.

9 A Good morning.

10 Q You had your deposition taken in
11 this case about three years ago, correct?

12 A That's correct.

13 Q All right.

14 And have you had your deposition
15 taken at any point since that -- since --

16 A No.

17 Q -- November of 2011, I think?

18 Okay.

19 I'm sure you remember the rules,
20 but generally speaking, I'm asking you
21 questions, you're answering under oath.

22 If any of my questions are
23 unclear at any point in time, let me know
24 and I'll be happy to rephrase the
25 question.

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2 If you answer the question, I'm
3 going to assume that you understood it.

4 Sound fair?

5 A All right.

6 Q If you want to take a break at
7 any point in time, just let me know and
8 we'll go ahead and do that.

9 A Okay.

10 Q If there is a question pending,
11 answer it before we break?

12 A Okay.

13 Q Do you have any health
14 conditions at all that might impact your
15 ability to give complete truthful answers
16 here today?

17 A No.

18 Q Are you taking any medication?

19 A No.

20 Q And remind me what you have been
21 doing since your retirement.

22 A I was talking to my counsel. I
23 umpire school baseball. I work around my
24 home. I visit my four granddaughters and
25 my two children. Take it kind of easy.

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2 I'm totally retired.

3 Actually I did -- for four
4 months I did work for a private
5 investigator. I was bored. One winter, I
6 think it was in 2007, and for a couple of
7 months, I was working for Frank Shea with
8 Alpha Investigations, Alpha Group.

9 Q How do you spell Shea?

10 A S-H-E-A.

11 Q And where is Mr. Shea's
12 operation based out of?

13 A It is either Farmingdale or
14 north Amityville. Right on Route 110 by
15 the Southern State Parkway.

16 Q You did that for about four
17 months?

18 A Yes. Probably more like three.
19 January to late March when baseball season
20 started.

21 Q What kind of cases were you
22 investigating?

23 A I was overseeing three or four
24 private investigators. It was the gamut.
25 There were undercover people who were

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1 McElhone
2 doing more matrimonial kind of, things and
3 there were a couple of retired New York
4 City police officers who were
5 investigating prior accidents and other
6 things like that. It was the whole gamut
7 of what you would expect.

8 Q And why did you stop doing that?

9 A I was tethered to a desk and a
10 computer screen and that's not why I
11 retired. So it was boredom or tedium. I
12 went back to boredom.

13 Q I understand.

14 Any other professional work, any
15 other professional work you received
16 compensation for since your retirement?

17 A No.

18 Q What about volunteer work?

19 A I'm active in my church. I'm a
20 lector and I'm on the finance board. If
21 they are doing a bazaar or a fair, I guess
22 you call it security work, but it is just
23 making sure that everything goes well.

24 Q Any volunteer work outside of
25 the church?

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1 McElhone

2 A Not that I can think of, no.

3 Q Do you have family in law
4 enforcement?

5 A No. A cousin actually who is
6 police officer for the SUNY system out in
7 Southampton, Stony Brook. It's actually
8 my godson.

9 Q Other than your godson and
10 yourself, no one else in the family is in
11 law enforcement, correct?

12 A No. My brother was an assistant
13 district attorney, but now he is in
14 private practice.

15 Q Since your deposition in 2011 --

16 A December of 2011.

17 Q December of 2011, tell me
18 everybody you have spoken with about this
19 case.

20 MR. MITCHELL: Objection to
21 form.

22 You can answer.

23 A I mentioned to people that I am
24 still being deposed and involved in a
25 lawsuit with this case, but I've never

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2 gotten into the details with anyone.

3 Q Who have you mentioned the fact
4 of the case to?

5 A Family members. Obviously my
6 wife, and I can't remember anybody. Just
7 casually, if they say what are you doing,
8 I'm still involved in a lawsuit on the
9 Tankleff case.

10 Q And did you tell your wife you
11 were coming here for a continuation of
12 your deposition today?

13 A Yes.

14 Q What did you tell her about it?

15 A It was a continuation from
16 something that we started a couple of
17 years ago.

18 Q I assume that you spoke with
19 your counsel. You're being represented by
20 Mr. Mitchell today, right?

21 A Briefly, yes.

22 Q When was your last conversation
23 with Mr. Mitchell?

24 A Was it Monday or --

25 MR. MITCHELL: I'd say I don't

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1 McElhone
2 remember. Sometime in the last week
3 or so.

4 A Last week I guess it was. I
5 actually stopped by to get my copy of the
6 deposition, and we spent about an hour
7 together one day last week.

8 Q Any other in-person meetings
9 with Mr. Mitchell between your 2011
10 deposition and today?

11 A No.

12 Q How about phone conversations?

13 A No.

14 Q When is the last time that you
15 spoke with Sergeant Doyle?

16 A I couldn't tell you for sure.
17 Probably socially in the last year or so.

18 Q On what social occasion did you
19 see Sergeant Doyle?

20 A I'm surmising, I can't give you
21 a specific, but I do see him like at
22 holiday parties, Superior Officers
23 Association for a retirement party
24 somewhere.

25 Q Okay.

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1 McElhone
2 So you actually remember seeing
3 him at a retired police officers function?

4 A Within the last three years I
5 have seen Bob Doyle, but it would be
6 something socially. It wouldn't be
7 something like pick up the phone and
8 arrange to meet with him.

9 Q So it would be at an organized
10 social gathering?

11 A Yes.

12 Q And do you go to a holiday party
13 every year?

14 MR. MITCHELL: I object to the
15 form.

16 You can answer.

17 A Yeah, most years. When I first
18 retired, I would still go to --

19 MR. MITCHELL: Just answer the
20 question. She asked if you go every
21 year.

22 A Yes, I go every year.

23 Q So you have probably seen
24 Sergeant Doyle at every holiday party
25 since 2011?

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2 MR. MITCHELL: Objection. Most
3 of the time I will say you can answer.

4 A It's fair to say most years I do
5 go. There are times I'm away and other
6 times that I might not see Bob. These
7 things are large, 7,500 people there
8 sometimes.

9 Q What was the last conversation
10 you had -- what is the last time you
11 actually remember interacting with
12 Sergeant Doyle?

13 MR. MITCHELL: Object to form.
14 You can answer.

15 A I can't -- what do you mean by
16 interacting?

17 Q I mean being in the same room.

18 A Saying hello, how are you doing,
19 what are you doing?

20 Q Having any kind of interactions
21 with him where you were speaking to
22 Sergeant Doyle and he was speaking to you.

23 A Probably in the last year or
24 two, tops.

25 Q And let's start with the first

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2 of those occasions.

3 What did you say to Sergeant

4 Doyle and what did he say to you?

5 MR. MITCHELL: Object to the

6 form.

7 You can answer.

8 A It's social. I'm retired, he is

9 retired, what are you doing with yourself,

10 have you seen so and so.

11 Q When is the last conversation

12 that you had with Sergeant Doyle about

13 this case in any way?

14 A In 2011, when I was giving a

15 deposition, I know he was giving a

16 deposition, and that was -- I think prior

17 to that Rich Dunn was the attorney, and we

18 had a meeting where all three of us were

19 in the same room.

20 Q And before that meeting, had you

21 talked about the case with Doyle?

22 MR. MITCHELL: Outside of the

23 presence of counsel?

24 MS. FREUDENBERGER: Outside the

25 presence of counsel.

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2 A No.

3 Q What is the last time, when was
4 the last time that you saw Detective
5 McCready?

6 A At Sergeant Doyle's retirement
7 party.

8 Q When was that, if you recall?

9 A It was before the last
10 deposition so I don't know, whenever he
11 retired.

12 Q And have you spoken to Detective
13 McCready since your last deposition?

14 A No.

15 Q Okay.

16 What about Norman Ryan?

17 A Haven't seen him.

18 Q Have you spoken to him since
19 December of 2011?

20 A No.

21 Q You mentioned stopping by
22 counsel's office to pick up a copy of your
23 last deposition transcript.

24 Did you review that transcript?

25 A Yes.

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2 Q How much time have you spent
3 reviewing it?

4 A Couple hours probably. Read it
5 the first time and read it again
6 yesterday.

7 Q You read it closely?

8 A Yeah.

9 Q What other documents have you
10 reviewed in preparation for your testimony
11 today?

12 A Before the 2011 deposition --

13 MR. MITCHELL: She said in
14 preparation of today.

15 A Yes, I had these articles, the
16 440 exam. There were supplementary
17 reports from the original homicide
18 investigation.

19 Q Would it be accurate to say that
20 you reviewed the exhibits to the 440
21 proceedings?

22 A I don't think I had the
23 exhibits. I think I had like an overall
24 narrative of what went on. 440 is to the
25 Federal Court or is that to state court?

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2 I'm not sure. I'm probably using the term
3 wrong.

4 Q Maybe we can -- I'm actually not
5 allowed to answer your questions.

6 MS. FREUDENBERGER: Brian, do
7 you know what documents he is
8 referring to?

9 MR. MITCHELL: I do not.

10 Q So you reviewed documents that
11 you understood were connected to the 440
12 proceedings in this case, correct?

13 A Yes.

14 Q And when I say 440 proceedings,
15 do you understand that to mean Marty
16 Tankleff's post conviction proceedings?

17 A Yes.

18 Q In other words, the court
19 proceeding that led to the vacatur of
20 Marty's conviction and the dismissal of
21 all the indictments against him?

22 A I don't believe there was enough
23 there to say all of that. It was more of
24 a condensation of who the new evidence was
25 concerning.

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2 Q But you do understand of course
3 that pursuant to those proceedings,
4 Mr. Tankleff's conviction was vacated and
5 the indictments against him for the
6 murders of his parents were dismissed?

7 A Yes.

8 Q And your understanding is that
9 you reviewed documents that were prepared
10 in connection with those post conviction
11 proceedings?

12 A Yes.

13 Q And what about the documents you
14 reviewed signaled to you that they were
15 connected to the 440 proceedings in some
16 way?

17 A They were a synopsis of the
18 three people that had come forward saying
19 that they might have been involved. They
20 were more the investigative report of I
21 guess Mr. Salpeter and Harris and Creedon
22 and whoever, Kent I think is the third
23 name that were involved.

24 Q So you reviewed investigative
25 reports concerning the roles that Creedon,

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2 Kent and Harris may have made in the
3 Tankleff attacks and murders.
4 Is that fair to say?
5 A Yes. And I'm not quite sure
6 what the document was. It wasn't a
7 thorough total investigative report. It
8 was a synopsis of who they were and what
9 was said.
10 Q So you weren't actually -- I'm
11 just trying to figure out what -- you
12 weren't actually reviewing investigative
13 reports, you were reviewing a synopsis of
14 the substance of investigative reports; is
15 that correct?
16 A I guess that would be more
17 accurate.
18 Q In that set of materials that
19 you are describing, was there any
20 information -- did the synopsis you're
21 describing contain any information
22 unrelated to Peter Kent, Joseph Creedon
23 and Glenn Harris?
24 A No. I'm not sure I understand
25 what you're asking.

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2 Q I'm just asking you if you
3 reviewed information aside from the
4 information that pertained to the roles
5 that Creedon, Kent and Harris might have
6 played in the crimes?

7 A Not in that document. As I
8 mentioned earlier, I did review
9 supplementary reports from the original
10 homicide investigation.

11 Q So you reviewed the synopsis of
12 what Creedon, Kent and Harris had to say
13 about their roles in the crimes, right?

14 A Yes.

15 Q And then you also reviewed
16 supplemental reports from the original
17 police investigation into the Tankleff
18 attacks back in 1988?

19 A Yes.

20 Q And about how many pages of
21 police reports would you say you reviewed?

22 A 20, 25.

23 Q Did you review any notes, any
24 police notes?

25 A No.

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2 Q Have you at any point in time
3 since say the mid-90s review the missing
4 person's file on Jerry Steuerman?

5 A I did review a -- there was one
6 report on that, that Norman Rein wrote I
7 believe on a meeting we had with
8 Steuerman's attorney in Smithtown when I
9 was still the CO of the homicide squad,
10 and maybe one or two other pages, very
11 short synopsis of what was going on in
12 that missing person.

13 Q And those were actual
14 supplemental reports?

15 A Yes.

16 MR. MITCHELL: Was that
17 something that you reviewed? I just
18 lost track of when you reviewed it.

19 MS. FREUDENBERGER: I'm going to
20 ask him.

21 MR. MITCHELL: Okay.

22 Q And in addition to the missing
23 person's report, the supplemental reports
24 from the original homicide investigation,
25 and the synopsis of what Creedon, Kent and

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2 Harris had to say about their roles in the
3 crimes, are there other documents that you
4 have reviewed in connection with this
5 civil litigation at any point in time?

6 A No.

7 Q And are those three categories
8 of documents that you just described, the
9 synopsis and the supplemental reports, did
10 you review those documents in between your
11 2011 deposition and today?

12 A Yes.

13 Q When did you review them?

14 A Last week.

15 Q Have there been any other
16 documents provided to you that you have
17 not reviewed?

18 A No.

19 Q Did you review the complaint in
20 this case?

21 A Excuse me?

22 Q Did you review our complaint in
23 the civil case?

24 A Yes.

25 Q When was the last time you

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2 looked at that?

3 A That was before the last
4 deposition of 2011.

5 Q How long did you spend reviewing
6 that, would you say?

7 A An hour or two.

8 Q Enough to familiarize yourself
9 with the allegations?

10 A Yes.

11 Q Chief McElhone, do you have any
12 understanding of any of the deposition
13 testimony that's been given in this civil
14 case, leaving aside your own testimony,
15 from any source at all?

16 MR. MITCHELL: Object to the
17 form.

18 You can answer.

19 A I think I know the names of the
20 people that have been deposed, but I don't
21 know anything about what they have said.

22 Q So you have no understanding of
23 what any witness said under oath other
24 than yourself?

25 A Right.

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2 Q Other than your wife and your
3 lawyer, anybody else you have spoken to
4 about this case since your deposition in
5 2011?

6 A No.

7 Q Have you talked to your kids
8 about it?

9 A Not that I can recall. If
10 anything, it would be a casual oh, yeah,
11 I'm still involved with that case, I have
12 to give a deposition. No substance.

13 Q I'm not going to go over much of
14 what you covered in your last deposition,
15 but I do want to quickly ask some
16 follow-up questions about your period of
17 time when you assumed command of the
18 homicide squad.

19 A Okay.

20 Q You assumed command of the
21 homicide squad relatively close in time to
22 the Tankleff murders, correct?

23 A I was the commander when it
24 happened.

25 Q But you had only been the

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2 commander for -- you were commander for
3 how many months before the Tankleff
4 murders?

5 A About a year-and-a-half. It was
6 February of '87 I was assigned and the
7 murder was September of '88.

8 Q So about 18 months?

9 A Yes.

10 Q You were brought in after a
11 period of relative turmoil in the
12 department.

13 Is that fair to say?

14 MR. MITCHELL: Object to the
15 form.

16 You can answer.

17 A Fair to say.

18 Q In particular, the homicide
19 squad in particular had received a great
20 deal of negative criticism prior to your
21 assuming command, correct?

22 MR. MITCHELL: Object to the
23 form.

24 You can answer.

25 A Yes.

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2 Q Including from the SIC
3 investigation, the confession taker
4 series, right?

5 A That's correct.

6 Q In other words, prior to you
7 assuming command, the homicide squad had
8 really been under a barrage of criticism
9 for, among other things, breaking the
10 rules when it came to confessions; is that
11 accurate?

12 MR. MITCHELL: Object to the
13 form.

14 You can answer.

15 A I know Newsday did a series
16 about the confession takers.

17 Q And so there had been a great
18 deal of criticism, high profile criticism,
19 in the media for the way the homicide
20 squad was getting confessions, correct?

21 MR. MITCHELL: Object to the
22 form.

23 You can answer.

24 A Yes.

25 Q Allegations that the homicide

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1 McElhone
2 squad was using illegal tactics to get
3 confusions, correct?

4 MR. MITCHELL: Objection.

5 You can answer.

6 A These were newspaper reports.

7 Q There were public high profile
8 allegations that detectives in the
9 homicide squad were using improper and
10 illegal tactics to obtain confessions,
11 correct?

12 A I think it was more that the
13 focus was entirely on getting confessions
14 and ignoring or giving short shrift to
15 physical evidence or other means of
16 obtaining convictions.

17 Q Well, in the course -- weren't
18 some of the allegations in the course
19 of --

20 MS. FREUDENBERGER: Withdrawn.

21 Q The allegations also included
22 that by focusing, as you say, exclusively
23 on confessions, detectives were cutting
24 corners when it came to the procedures
25 used to get confessions.

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2 Would that be fair to say?

3 MR. MITCHELL: Object to the

4 form.

5 You can answer.

6 A That would be the scope of what
7 Newsday and other people were saying at
8 the time, yes.

9 Q So there had been allegations
10 prior to you assuming command of the
11 homicide squad that detectives were using
12 improper means to get confessions.

13 Fair to say?

14 A Or focusing exclusively on that
15 and not doing basic detective work.

16 Q Both, right?

17 A Yes.

18 Q And those criticisms weren't
19 limited to one series of newspaper
20 articles, they came from various sources?

21 A There was SIC, State
22 Investigation Commission, was looking into
23 these. There was a county legislature had
24 put together hearings on this group too.
25 There was a couple of things going on,

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1 McElhone

2 yes.

3 Q In other words, there were
4 allegations that the homicide squad --
5 there were allegations from a number of
6 sources which included that the homicide
7 squad was using improper tactics to get
8 confessions, correct?

9 A Yes.

10 Q Shortly prior to you assuming
11 command of the homicide squad?

12 A Yes.

13 Q Chief McElhone, you were brought
14 in after there had been a relatively quick
15 high turnover of detectives in the
16 homicide squad, correct?

17 MR. MITCHELL: Objection.

18 You can answer.

19 Q I think you described in your
20 last day of deposition an exodus?

21 A There was a lot of turnover just
22 before I got there.

23 Q In other words, your
24 predecessors had cleaned house, to put it
25 colloquially?

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2 A Some detectives decided to
3 retire. There was an unrelenting pressure
4 on them. And others were asked to
5 transfer or to leave.

6 Q And some detectives were
7 encouraged to retire, correct?

8 A Yes. I don't have direct
9 knowledge of that.

10 Q That was your understanding?

11 A That was the assumption and --
12 yes.

13 Q Fair to say you had a reputation
14 as a by-the-book kind of supervisor?

15 MR. MITCHELL: Object to the
16 form.

17 You can answer.

18 A I was an effective supervisor.
19 I was in charge of the Fifth Squad
20 detectives, and we were one of the busiest
21 squads, so I was looked at it as an
22 effective boss.

23 Q And part of being an effective
24 boss was adhering to the policies,
25 policies and procedures?

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1 McElhone

2 A Yes.

3 Q You were known for being the
4 kind of supervisor that enforced the
5 rules?

6 MR. MITCHELL: Object to the
7 form.

8 You can answer.

9 A Among other things, yes.

10 Q And among other things, you had
11 a reputation back in 1987 when you assumed
12 command of the homicide squad for ensuring
13 that the detectives below you followed the
14 rules, correct?

15 A Yes.

16 Q And that was something that you
17 took seriously?

18 A Oh, yes.

19 Q And you pride yourself on that
20 reputation?

21 A Absolutely.

22 Q And did you understand that one
23 of the reasons that you were brought in to
24 run the homicide squad was because you had
25 a reputation for ensuring that detectives

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1 McElhone
2 below you followed the rules?

3 A Among other things.

4 Q Among other things. Okay.

5 And so it was your understanding
6 that one reason that you were brought in
7 to run the homicide squad was to make sure
8 that the detectives below you followed
9 strictly the department's policies and
10 procedures when it came to getting
11 confessions among other things?

12 MR. MITCHELL: Object to the
13 form.

14 You can answer.

15 A Again, that was part of it. No
16 one told me this is why you're coming in
17 to clean house or be a by-the-book, to use
18 your words, kind of guy. The chief called
19 me up and said, we're making the change in
20 homicide, we would like you to come up.

21 Q But you must have had an
22 understanding given everything that was
23 going on at the time about why you were
24 there?

25 A I knew it would be a pretty

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1 McElhone
2 important part of the job that I was
3 assuming.

4 Q In other words, you understood
5 that it was going to be a particularly
6 part of your job to make sure that
7 detectives below you followed the rules
8 when it came to, among other things,
9 getting confessions, correct?

10 A Correct.

11 Q I gather that you also
12 understood --

13 MS. FREUDENBERGER: Well,
14 withdrawn.

15 Q The homicide squad when you took
16 control had a little bit of an image
17 problem.

18 Fair to say?

19 MR. MITCHELL: Objection to
20 form.

21 You can answer.

22 A In certain circles, I guess,
23 yes.

24 Q Following the public criticism
25 from multiple sources about, among other

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MARTIN TANKLEFF vs. SUFFOLK COUNTY

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1 McElhone
2 things, the way that the homicide squad
3 was getting confessions, would it be fair
4 to say that the homicide squad had
5 something of an image problem when you
6 took command?

7 MR. MITCHELL: Object to form.

8 You can answer.

9 A In public circles, yes, it was
10 something. I'm sure that there were
11 suspicions, if nothing else.

12 Q And public perception is very
13 important to police work, correct?

14 MR. MITCHELL: Object to the
15 form.

16 You can answer.

17 A Yes.

18 Q In other words, unlike other
19 professions, like law or medicine, what
20 the public thinks of you does not
21 necessarily impact your ability to do your
22 job, but in --

23 MS. FREUDENBERGER: I gather you
24 don't dispute those, Brian?

25 MR. MITCHELL: Your analogy, I'm

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MARTIN TANKLEFF vs. SUFFOLK COUNTY

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1 McElhone

2 not sure. I'm sure there are plenty
3 of places, it's the law part. I'm
4 sort of making a joke here.

5 MS. FREUDENBERGER: I understand
6 the joke. Let me finish the question.

7 So I'll withdraw.

8 Q Unlike other professions, like
9 law or medicine, a police department's
10 ability to effectively do their job can
11 depend on their perception by the
12 community, correct?

13 A Inasmuch as we need cooperation
14 from the public to provide information to
15 support us in our investigations, in our
16 daily work, yes, that's very important.

17 Q There are all sorts of reasons
18 why having the public not trust the police
19 department makes it more difficult for the
20 police department to do its work, correct?

21 A Yes.

22 Q Including the homicide squad,
23 correct?

24 A Yes.

25 Q So in addition to your

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MARTIN TANKLEFF vs. SUFFOLK COUNTY

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1 McElhone
2 understanding that you were coming in to
3 make sure that rules in the homicide --
4 that the homicide detective were following
5 the rules, you also understood that you
6 were coming in to give the perception that
7 the rules within the homicide squad were
8 going to be strictly enforced.

9 Fair to say?

10 MR. MITCHELL: I object to form.

11 You can answer.

12 A Again, I didn't have a sit-down
13 conversation with this is the reason
14 you're being brought in. I assumed that
15 this would be a very important part of my
16 new responsibilities.

17 Q And you understood that a part
18 of your new responsibilities was fixing
19 the public image of the homicide squad,
20 correct?

21 A Wherever I worked, I thought
22 that would be an important thing to do.

23 Q Here in particular, given the
24 amount of public criticism that the
25 homicide squad had just received, you

JOHN MCELHONE
MARTIN TANKLEFF vs. SUFFOLK COUNTY

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1 McElhone
2 understood it was materially important for
3 you to repair the image of the homicide
4 squad when it came to following department
5 policies and procedures, correct?

6 MR. MITCHELL: Object to the
7 form.

8 You can answer.

9 A I was one person. I was the
10 commanding officer. That would be a very
11 important part. I don't know that my
12 direct application of what I did every day
13 would be the magic bullet to remove any
14 suspicions from the homicide squad, but it
15 was something that I wanted to make sure
16 everything was done correctly and properly
17 and also as effectively as we could do.
18 It is a very important job.

19 Q Of course.

20 And as the commanding officer of
21 the homicide squad, you were in many ways
22 the face of the homicide squad, correct?

23 A Publicly I did a lot of the
24 press releases and wrote most of the press
25 releases and dealt with Newsday almost

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MARTIN TANKLEFF vs. SUFFOLK COUNTY

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1 McElhone

2 every day, sure.

3 Q So communicating with the press
4 was an important part of your job
5 responsibilities?

6 A Yes.

7 Q And so when you came in to
8 assume command of the homicide squad in
9 1987, you understood when you assumed
10 command of the homicide squad in 1987 that
11 one important part of your role was going
12 to be to assure the public and the press
13 by giving the perception that under your
14 tenure, the detectives in the homicide
15 squad were going to be expected and
16 required to follow the rules when it came
17 to getting confessions, among other
18 things, correct?

19 A Yes.

20 Q And that was generally
21 understood within your command, correct?

22 MR. MITCHELL: Object to the
23 form.

24 You can answer.

25 Q Chief McElhone, you described at

JOHN MCELHONE
MARTIN TANKLEFF vs. SUFFOLK COUNTY

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1 McElhone
2 the first day of your deposition --

3 MS. FREUDENBERGER: Well,
4 withdrawn.

5 Q When you assumed command, there
6 were a number of detectives that had
7 already left the squad, correct?

8 A Yes.

9 Q And there were a few detectives
10 that had been with the homicide squad for
11 a relatively long period of time
12 throughout the period of public criticism
13 who stayed on, correct?

14 A Yes.

15 Q I think there were four in
16 particular?

17 A Might have been more than four,
18 four or five, not much more.

19 Q And Detective McCready was one
20 of those detectives from the old guard who
21 stayed on.

22 Fair to say?

23 MR. MITCHELL: Objection to
24 form.

25 You can answer.

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MARTIN TANKLEFF vs. SUFFOLK COUNTY

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1 McElhone

2 A Again, "old guard" is your
3 words. They were experienced and they
4 were there.

5 Q All right.

6 Well, Detective McCready was one
7 of the detectives who had been with the
8 homicide squad during the period of time
9 that Newsday and other sources were
10 criticizing, who stayed on even after
11 other detectives had been asked to leave,
12 correct?

13 A That's correct.

14 Q In other words, McCready had
15 been around during the period of time when
16 the homicide squad was being criticized
17 for their work.

18 Fair to say?

19 A Fair to say.

20 Q And in the first day of your
21 deposition, you described having -- I
22 think you called it a sit-down with the
23 detectives who had been with the squad
24 throughout the 80s and stayed on?

25 A That's correct.

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MARTIN TANKLEFF vs. SUFFOLK COUNTY

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1 McElhone

2 Q In other words, you sat down --

3 MS. FREUDENBERGER: Well,
4 withdrawn.

5 Q In other words, you sat, you had
6 individual meetings with those four or
7 five detectives who had been there during
8 that period of turmoil and stayed on,
9 including Detective McCready, shortly
10 after you assumed command of the squad,
11 correct?

12 A Correct.

13 Q And it sounds to me, correct me
14 if I'm wrong, that you made a couple of
15 things clear in those meetings. One, that
16 those detectives didn't need to be
17 worrying about their jobs every day, that
18 they were going to get a fresh start; is
19 that correct?

20 A Correct.

21 Q That you were going to treat
22 them fairly, correct?

23 A That's correct.

24 Q That you weren't going to look
25 at them any differently than any of the

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MARTIN TANKLEFF vs. SUFFOLK COUNTY

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1 McElhone
2 new detectives who were coming in to join
3 the squad, correct, insofar as job
4 security was concerned?

5 A Yes.

6 Q And, in fact, I gather from your
7 hesitation, correct me if I'm wrong, that
8 you did intend to supervise those
9 detectives a little more carefully,
10 correct?

11 A That, and I expected more of
12 them as being there as long as they had
13 been. They were the senior people and we
14 would expect them to perform better than
15 someone I'm just bringing in, to be a bit
16 of a mentor in certain cases.

17 Q And, in particular, did you
18 expect them to demonstrate to the other
19 new detectives that they were carefully
20 following the rules when it came to
21 conducting homicide investigations,
22 including when it came to getting
23 confessions?

24 A That would be part of it, but
25 most of that I put on the sergeant's back.

JOHN MCELHONE
MARTIN TANKLEFF vs. SUFFOLK COUNTY

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1 McElhone

2 The sergeants are there every day with
3 them.

4 Q But you certainly made it clear
5 to the sergeants that they -- when it came
6 to these more experienced detectives who
7 had been there for a long period of time
8 and had stayed on, the sergeants needed to
9 make sure that those detectives were
10 setting an example by closely following
11 the rules, including when it came to
12 getting confessions, correct?

13 A Correct.

14 Q And I gather in the sit-down
15 meetings, you made clear to those four or
16 five detectives, including Detective
17 McCready, that you expected him to closely
18 follow the department's policies and
19 procedures, including when it came to
20 getting confessions, correct?

21 A Correct.

22 Q And so in addition to assuring
23 those detectives, including Detective
24 McCready, that they didn't need to be
25 worrying about job security every day, you

JOHN MCELHONE
MARTIN TANKLEFF vs. SUFFOLK COUNTY

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1 McElhone
2 also made clear that if they so much as
3 put a toe out of line, you were not going
4 to hesitate to transfer them or otherwise
5 recommend discipline, correct?

6 A I don't think I was that heavy
7 about it at that point, but I think the
8 understanding was there that this is the
9 way we're going to run things now. There
10 will be no freelancing. Supervisors will
11 be in charge of all the investigations,
12 and you'll follow all of the rules, yes.

13 Q In other words, you made clear
14 to Detective McCready that he wasn't
15 allowed to go out on his own without
16 clearing things with his supervisor,
17 correct?

18 A Correct.

19 Q And you also made clear to him
20 that when it came to confessions, he was
21 expected to strictly follow the rules,
22 correct?

23 A Right.

24 Q And in addition, you made clear
25 that you were not going to -- well, did

JOHN MCELHONE
MARTIN TANKLEFF vs. SUFFOLK COUNTY

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1 McElhone
2 you make clear to him that you as the
3 commander of the homicide squad was not
4 going to tolerate any violation of rules,
5 including when it came to getting
6 confessions?

7 A Yes.

8 Q And certainly the detectives
9 under your command understood that under
10 your tenure, you would not hesitate to
11 discipline or transfer out of the homicide
12 squad detectives who were not following
13 the rules, including when it came to
14 getting confessions, correct?

15 MR. MITCHELL: Objection to
16 form.

17 You can answer.

18 A Yes. Clear from me and also
19 from what had transpired for several
20 months leading up to this date obviously.
21 They saw what was going on. It wasn't
22 going to be tolerated by the department in
23 general as well as me.

24 Q So, in other words, the
25 detectives in the homicide squad

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MARTIN TANKLEFF vs. SUFFOLK COUNTY

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1 McElhone
2 understood that any violation of the rules
3 when it came to elicit how confessions
4 were taken was going to subject them to
5 very serious discipline or transfer,
6 correct?

7 A Yes, that's fair to say.

8 Q Even more so in this period of
9 time in 1987, 1988, 1989 than perhaps
10 earlier in the decade before this broad
11 criticism, fair?

12 A Fair.

13 Q And no doubt in your mind you
14 got that message across, correct?

15 A Correct.

16 Q Including to Detective McCready,
17 correct?

18 A Yes.

19 MS. FREUDENBERGER: Do we have
20 the first day of Chief McElhone's
21 deposition marked yet? Let's go ahead
22 and mark this. Let's go ahead and
23 mark this McElhone 13.

24 (Whereupon, Transcript of Chief
25 McElhone's Deposition, was marked as

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1 McElhone

2 McElhone Exhibit 13 for
3 identification, as of this date.)

4 BY MS. FREUDENBERGER:

5 Q I think you mentioned that
6 another area that the department had come
7 under criticism for was crime scene
8 processing?

9 A I don't recall saying that. It
10 was narcotics and homicide I know was a
11 problem.

12 Q Had there been criticism of the
13 way that crime scene evidence was gathered
14 and received in crime scene
15 investigations?

16 A It was portrayed to me more of
17 confusion of who would search a crime
18 scene. That was something that was ironed
19 out.

20 Q And, in fact, the confusion over
21 whose role it was to search crime scenes
22 had caused problems for the department in
23 homicide cases in the past, correct?

24 A That's my understanding.

25 Q The DA's case in particular?

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MARTIN TANKLEFF vs. SUFFOLK COUNTY

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1 McElhone

2 A Again, that's my understanding.

3 I wasn't involved in that case.

4 Q I understand that you weren't
5 there.

6 And you said that got ironed out
7 pretty quickly after you took command,
8 correct?

9 A We clearly delineated. Actually
10 when I came on board, there was a number
11 of things that we sat down and put
12 together.

13 Q I will get there.

14 One of the things that you did
15 to address that confusion, as you termed
16 it, was to educate the homicide detectives
17 about what their role was when it came to
18 crime scenes, correct?

19 A Basically that was with the
20 sergeants and myself. We let everyone
21 know what the responsibilities were, yes.

22 Q And you also I think spoke with
23 Dr. Hirsch, the medical examiner at the
24 time, correct?

25 A That's correct.

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MARTIN TANKLEFF vs. SUFFOLK COUNTY

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1 McElhone

2 Q You, in fact, brought him in to
3 train the homicide detectives, correct?

4 A Yes.

5 Q You did monthly trainings?

6 A That's correct.

7 MS. FREUDENBERGER: Let's just
8 take a quick break because my pen is
9 leaking.

10 (Thereupon, a recess was taken,
11 and then the proceedings continued as
12 follows:)

13 BY MS. FREUDENBERGER:

14 Q So Chief McElhone, we were
15 talking about crime scenes.

16 Fair to say it was a priority of
17 yours when you assumed control of the
18 homicide squad in 1987 to clear up any
19 confusion among the homicide detectives
20 about what their role was when it came to
21 crime scenes, correct?

22 A Correct.

23 Q And there are a whole variety of
24 ways that crime scene evidence is
25 important to homicide investigations.

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MARTIN TANKLEFF vs. SUFFOLK COUNTY

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1 McElhone

2 Fair to say?

3 A Yes.

4 Q The appearance of a crime scene
5 can give detectives important information
6 right away as to how a crime may have
7 occurred, correct?

8 A Correct.

9 Q And there are all sorts of ways
10 that detectives can use what they learn
11 from a crime scene right away to
12 expeditiously solve homicides.

13 Fair to say?

14 A It should give them a direction
15 early on, yes.

16 Q And there had been to your
17 knowledge a serious problem with the way
18 the crime scene was handled in the Diaz
19 case, correct?

20 A Yes.

21 Q And in particular, that was a
22 confession case, right?

23 A Again, my information from that
24 comes from reading the paper.

25 Q I understand.

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MARTIN TANKLEFF vs. SUFFOLK COUNTY

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1 McElhone

2 Let me be clear for the record:

3 I'm only asking you about your

4 understanding back in 1987 when you took

5 command of the homicide squad, your

6 understanding of what had happened in the

7 Diaz case. I'm not asking you to testify

8 about the Diaz case. Just your

9 understanding of what had happened.

10 So my understanding, and let me

11 know if it is inconsistent with your

12 understanding in any way, is that a

13 confession had been taken in the Diaz

14 case?

15 A Right.

16 Q And in that confession, the

17 suspect had volunteered discarding the

18 murder weapon --

19 MS. FREUDENBERGER: Well,

20 withdrawn.

21 Q Diaz was a stabbing case; is

22 that your understanding?

23 A That's my understanding.

24 Q And the suspect gave a

25 confession, correct; was that your

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MARTIN TANKLEFF vs. SUFFOLK COUNTY

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1 McElhone

2 understanding.

3 A Yes.

4 Q And in that confession, he
5 described committing the stabbing with a
6 knife, correct?

7 A Yes.

8 Q And then he described discarding
9 the knife in the woods, correct?

10 A Yes.

11 Q And subsequently a knife -- the
12 knife used in -- the knife which would be
13 the knife used in the murder was found in
14 the garage of his home?

15 A Somewhere in his home.

16 Q In other words, what he
17 described doing with the murder weapon was
18 not consistent with what the crime scene
19 evidence showed, correct?

20 A It would lead to you believe
21 that, yes.

22 Q And one of the reasons that that
23 was a problem, I gather, is that there was
24 insufficient evidence -- there was
25 insufficient information about what the

JOHN MCELHONE
MARTIN TANKLEFF vs. SUFFOLK COUNTY

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1 McElhone
2 crime scene showed early on to allow the
3 detectives to assess the reliability of
4 the confession as it was taking place.
5 Would you agree?

6 MR. MITCHELL: Objection to the
7 form.

8 You can answer.

9 A I'm not sure I understand the
10 question.

11 Q It was a bad question. I'll
12 rephrase it.

13 One of the problems in the Diaz
14 case was that the detectives didn't know
15 that the murder weapon was actually in the
16 suspect's home in time to ask him about it
17 during his confession when he told them he
18 had done something else with the murder
19 weapon, correct?

20 A That would be fair to say, yes.

21 Q In the victim's home, is what I
22 mean.

23 A Yes.

24 Q That doesn't change your answer,
25 correct?

JOHN MCELHONE
MARTIN TANKLEFF vs. SUFFOLK COUNTY

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1 McElhone

2 A Yes.

3 Q So my understanding is that one
4 of the lessons learned from the Diaz
5 homicide was that information about what a
6 crime scene showed had to be identified as
7 early on as possible in a homicide
8 investigation so that, among other
9 reasons, when detectives were taking a
10 confession, they had enough information to
11 identify inconsistencies between the
12 suspect's story and what the evidence
13 showed, correct?

14 MR. MITCHELL: Objection to
15 form.

16 You can answer.

17 A That being one important aspect
18 of it, sure. Although there is also
19 physical evidence that's lost in there.

20 Q That's another reason to
21 carefully process crime scenes to make
22 sure that all physical evidence is
23 gathered so that it can be tested,
24 correct?

25 A Correct.

JOHN MCELHONE
MARTIN TANKLEFF vs. SUFFOLK COUNTY

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55

1 McElhone

2 Q And I take it you addressed
3 those problems in a number of ways when
4 you assumed command of the homicide squad
5 in 1987, correct?

6 A The problem when I took command
7 in 1987 was the finger pointing between
8 the medical examiner's lab and the police
9 department.

10 Q So you understood it had to be
11 clearly delineated who was doing what when
12 it came to crime scenes, correct?

13 A That's correct.

14 Q Okay.

15 And I think you testified at
16 your last deposition that when you took
17 command of the homicide squad, it was
18 decided that the homicide squad would be
19 responsible for the entire crime scene
20 search; is that correct?

21 A The scene would be homicide
22 squad; the body would be the medical
23 examiner's office.

24 Q So while the medical examiner's
25 office would be responsible for conducting

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MARTIN TANKLEFF vs. SUFFOLK COUNTY

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1 McElhone
2 any -- for processing crime scene
3 evidence, in other words, for conducting
4 any seriological testing that needs to be
5 performed on the physical evidence, it was
6 the homicide squad's responsibility to
7 actually identify that evidence for
8 collection, correct?

9 A There was a three person
10 walk-through at every crime scene. This
11 is one of the things that we put into
12 place immediately. It would be the lead
13 detective from homicide squad; it would be
14 a detective from the identification
15 bureau, which is the police department;
16 and it would be a representative of the
17 lab, the medical examiner's lab.

18 They would walk through the
19 crime scene together. They would
20 identify, okay, we have to make sure we
21 video all of this. We need a photo of
22 that. I see blood over here, the lab
23 says, okay, I will focus on that. And
24 then they would all back out and then the
25 entire crime scene is videotaped.

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MARTIN TANKLEFF vs. SUFFOLK COUNTY

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1 McElhone

2 At that point after the
3 videotaping is done, then each individual
4 member of that group would assume their
5 responsibility. The lab would recover
6 seriological evidence and physical
7 evidence; the detectives would search the
8 rest of the crime scene; and the ID people
9 would photograph whatever was being
10 recovered.

11 Q And so, again, the homicide
12 squad was responsible for actually making
13 sure that --

14 MS. FREUDENBERGER: Well,
15 withdrawn.

16 Q I just want to focus right now
17 on the homicide detective's
18 responsibilities when it came to crime
19 scenes.

20 A Okay.

21 Q So leave aside the
22 identification unit and the medical
23 examiner's roles.

24 A Crime lab.

25 Q The crime lab's role.

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MARTIN TANKLEFF vs. SUFFOLK COUNTY

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1 McElhone
2 And let's start with the
3 trainings that you organized. So one
4 thing that you did when you started was to
5 organize monthly training with Dr. Hirsch
6 for the homicide detectives, correct?

7 A Among others, yes.

8 Q And those would be on individual
9 particular -- each session would be on an
10 individual particular topic?

11 A That's correct.

12 Q And I gather one of the purposes
13 for those trainings was to make sure, help
14 educate homicide detectives so they would
15 understand the way that items of physical
16 evidence may have been used to commit a
17 crime, correct?

18 A Among others, yes.

19 Q In other words, you wanted to
20 make sure when your homicide detectives
21 showed up at the crime scene, they were
22 able to quickly and efficiently identify
23 objects that may have been used in crimes,
24 correct?

25 A Among other aspects, sure.

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MARTIN TANKLEFF vs. SUFFOLK COUNTY

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1 McElhone

2 Q And you made sure they were

3 trained to do so, correct?

4 A Yes.

5 Q And time is very important in

6 homicide investigations, correct?

7 A Yes.

8 Q And so a goal in any homicide

9 investigation is to identify as quickly as

10 possible physical evidence that may give

11 clues as to how a crime occurred, correct?

12 MR. MITCHELL: Objection to

13 form.

14 You can answer.

15 A Yes.

16 Q Including potential murder

17 weapons, correct?

18 A Yes.

19 Q And you trained your homicide

20 detectives to do that as quickly as

21 possible?

22 A I personally didn't do it, but I

23 arranged for training.

24 Q So you made sure they were

25 trained from the moment they arrived at a

JOHN MCELHONE
MARTIN TANKLEFF vs. SUFFOLK COUNTY

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1 McElhone
2 scene to identify physical evidence at a
3 crime scene that might indicate how a
4 crime occurred, correct?

5 A Yes.

6 Q Including identifying items that
7 were used to commit the homicide right
8 away, correct?

9 A Yes.

10 Q And one reason for that is so
11 that detectives can identify and
12 expeditiously follow up on any leads,
13 correct?

14 A That's important, yes.

15 Q It's also important that in a
16 case where there may be a suspect who is
17 going to be interrogated that the lead
18 detectives know enough about what the
19 evidence shows regarding how the crime may
20 have been committed to conduct an
21 effective interrogation?

22 MR. MITCHELL: Objection to the
23 form.

24 You can answer.

25 A Ideally, yes.

JOHN MCELHONE
MARTIN TANKLEFF vs. SUFFOLK COUNTY

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1 McElhone

2 Q You talked, and we can go over
3 this again if we need to, but you talked
4 in the first day of your deposition about
5 the importance of corroborating a
6 suspect's admission during an
7 interrogation with physical evidence,
8 correct?

9 A Correct.

10 Q And obviously an order for --
11 MS. FREUDENBERGER: Withdrawn.

12 Q Well, one important principle
13 experienced detectives understand is
14 that --

15 MS. FREUDENBERGER: Withdrawn.

16 Q One basic principle of
17 interrogations is that an admission of
18 guilt on its own is not especially
19 powerful if it can't be corroborated,
20 correct?

21 MR. MITCHELL: Object to the
22 form.

23 You can answer.

24 A An admission in the beginning
25 opens the door to a further discussion and

JOHN MCELHONE
MARTIN TANKLEFF vs. SUFFOLK COUNTY

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1 McElhone
2 corroboration as you've pointed out, yes.

3 Q Admission on its own is a
4 starting point not an ending point; is
5 that correct?

6 A That is correct, yes.

7 Q And it is important, one reason
8 that it is important for detectives to be
9 able to immediately be able to assess what
10 a crime scene shows about how the crime
11 may have been committed is so that if they
12 go on to do an interrogation, they can
13 test the reliability of the information
14 that the suspect is giving them, correct?

15 A If they have that information,
16 yes, that's very important.

17 Q So homicide detectives need to
18 be able to quickly develop the theory of a
19 crime based on the actual evidence
20 apparent to them in order to test whether
21 a suspect's admission is reliable,
22 correct?

23 A You used the word "theory". I
24 don't think at that point you're already
25 on a theory, but it is just a surveil,

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1 McElhone
2 survey of the scene to see what went on,
3 get a feeling for how this might have
4 occurred and go forward from there.

5 Q A hypothesis would be a better
6 word?

7 A Probably hypothesis would be a
8 better word.

9 Q And in particular, a homicide
10 detective needs to know what the evidence
11 at a crime scene shows right away so
12 that --

13 MS. FREUDENBERGER: Well,
14 withdrawn.

15 Q If an interrogation is ongoing
16 and a suspect says, you know, I
17 decapitated her with a chain saw, and the
18 homicide detective hasn't seen a chain saw
19 at the crime scene, that would signal
20 that, one, either the admission was not
21 reliable or, two, that more work needed to
22 be done at the crime scene.

23 Fair to say.

24 MR. MITCHELL: Object to form.

25 You can answer.

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1 McElhone

2 A Yes.

3 Q And so you made sure --

4 MS. FREUDENBERGER: Withdrawn.

5 Q Another training you arranged
6 for your homicide detectives was you had
7 Vernon Geberth come in and do a seminar?

8 A Yes.

9 Q And Vernon Geberth is a
10 well-respected homicide instructor now,
11 correct?

12 A Yes.

13 Q Or at least was back in 1988?

14 A I believe he testified at the
15 SIC, and that was one of the reasons that
16 Inspector Murphy at the time reached out
17 to him and arranged for a one-week seminar
18 by Mr. Geberth.

19 Q And he was known as an authority
20 on homicide investigations back in the
21 late 80s, correct?

22 A I guess so, yes.

23 Q That's why you brought him in?

24 A Actually, Inspector Murphy had
25 already made contact with him before I got

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1 McElhone

2 there, but, yes, that was in the first

3 couple of days that I was there.

4 Q And did all the detectives in
5 the homicide squad attend that seminar?

6 A Yes.

7 Q I'm going to read you a
8 paragraph from Mr. Geberth's book.

9 Are you familiar with this book,
10 Practical Homicide Investigation?

11 A Actually, I think that is a
12 later volume. I have the smaller brown
13 one that he provided everybody at the
14 time.

15 Q And so you're familiar with some
16 of his writings on homicide
17 investigations.

18 Fair to say?

19 A In his earlier book that I have
20 at home.

21 Q This is the third edition.

22 MR. MITCHELL: Do you know when
23 that was printed?

24 MS. FREUDENBERGER: We can mark
25 it too.

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1 McElhone

2 1996.

3 MR. MITCHELL: Thank you.

4 Q And this is from -- I'm not sure
5 what chapter number it is. It is the
6 chapter on "Supervision and management in
7 the homicide investigation".

8 A Okay.

9 Q On page 805, he says, "The scope
10 of the search is easily determined by a
11 theory or hypothesis arrived at by the
12 detective supervisor and investigators
13 based upon their initial observations of
14 the scene. This theory which is
15 provisional is based upon simple
16 assumptions of how and why the homicide
17 occurred. Remember anything and
18 everything can be evidence."

19 And so is this principle
20 articulated in the paragraph I just read
21 consistent with how your homicide
22 detectives were being trained? In other
23 words, were your homicide detectives
24 trained consistent with what Mr. Geberth
25 says to formulate a theory or hypothesis

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1 McElhone
2 based upon their initial observations at a
3 homicide scene?

4 MR. MITCHELL: Object to the
5 form.

6 You can answer.

7 A It is case dependent. Certain
8 scenes, you would have a body that is
9 laying in the woods for months, and what
10 kind of hypothesis can you make from that
11 other than probably dumped here. So it is
12 very limited and it is case dependent, but
13 you are certainly -- your initial
14 appearance at the scene and your
15 observations are very important at the
16 beginning.

17 Q For all sorts of reasons,
18 correct?

19 A Yes.

20 Q Including that they can give you
21 a theory about how a crime actually
22 occurred, correct?

23 A It could.

24 Q And let's talk specifically
25 about the Tankleff homicide scene.

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1 McElhone
2 Obviously their bodies were not
3 found in the woods, correct?
4 A Correct.
5 Q They were found in the home?
6 A Well, Seymour was removed at the
7 time.
8 Q The bodies were found within the
9 home, correct?
10 A Yes.
11 Q And Seymour was alive at the
12 time that first responders arrived at the
13 scene, correct?
14 A Yes.
15 Q And he was subsequently
16 transported to the hospital, correct?
17 A Yes.
18 Q But not until detectives and
19 representatives of the crime lab had a
20 chance to actually observe the body,
21 correct.
22 MR. MITCHELL: Which body are
23 you talking about?
24 MS. FREUDENBERGER: Seymour.
25 A Absolutely not.

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1 McElhone

2 Q I stand corrected. That's

3 correct.

4 Seymour's body was taken to the

5 hospital before?

6 A Rather quickly.

7 MR. MITCHELL: He was alive so

8 he was taken. I get what you're

9 saying, his body and the rest of him

10 too.

11 MS. FREUDENBERGER: I mean no

12 disrespect to Seymour Tankleff.

13 Q The appropriate sequence of

14 events was that the first responders

15 arrived, and then within a short period of

16 time, Mr. Tankleff was transported to -- I

17 get the two hospitals confused -- but he

18 was transported to Mather Hospital.

19 Is that consistent with your

20 understanding?

21 A Yes.

22 Q But going back to the Tankleff

23 crime scene, the assaults on the Tankleffs

24 occurred in their home, correct?

25 A Yes.

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1 McElhone

2 Q And so it was a contained indoor
3 area?

4 A Yes.

5 Q And insofar as anyone knew, by
6 the time that homicide arrived on the
7 scene, there was no suggestion that the
8 crime scene had been contaminated,
9 correct?

10 A We hoped not. If there was EMS
11 people, police officers would have
12 responded, and we tried to train them if
13 you can save a life, you save a life. If
14 not, preserve the scene, back out, and let
15 us process it.

16 Q And there was no indication that
17 this crime scene had not been preserved,
18 correct?

19 A As much as what I just
20 described, there was activity by the first
21 arriving uniformed officers and ambulance
22 people, and then at that point hopefully,
23 it was taped off.

24 Q But you had no indication that
25 those first responders and ambulance

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1 McElhone
2 people had not followed their training
3 when it came to doing the best --
4 everything they couldn't when it came to
5 preserving the crime scene?

6 A That's correct.

7 Q Insofar as homicide
8 investigations were concerned, this was an
9 ideal crime scene in terms of being able
10 to draw inferences and create a hypothesis
11 based on what was visible at the scene,
12 correct?

13 MR. MITCHELL: Objection to the
14 form.

15 You can answer.

16 A I don't know about ideal, but it
17 was better than a body in the woods.

18 Q It was pretty much as good as it
19 gets when it comes to homicide crime
20 scenes and being able to draw inferences
21 or hypotheses based on what the evidence
22 shows, correct?

23 MR. MITCHELL: Object to the
24 form.

25 You can answer.

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1 McElhone

2 A There was still that earlier
3 activity that was involved by Martin
4 Tankleff surviving and walking around and
5 doing whatever he did in the house and
6 then the first responders. It wasn't
7 quite ideal, but I had no reason to
8 believe it wasn't preserved as well as
9 could be expected.

10 Q And in addition to being
11 preserved, it was the kind of crime scene
12 that --

13 MS. FREUDENBERGER: Well,
14 withdrawn.

15 Q The Tankleffs also lived in an
16 affluent area, correct?

17 A Yes.

18 Q They had a relatively large
19 house, correct?

20 A Yes.

21 Q And you may remember this from
22 the trial, I'm not sure, they had -- they
23 actually had a cleaning staff, correct?

24 A I remember it from some reports
25 that I read, yes.

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1 McElhone

2 Q And as domestic residences go,
3 it was a fairly clean house, correct?

4 MR. MITCHELL: Object to the
5 form.

6 You can answer.

7 A I was actually there. I
8 wouldn't say it was clean. It was big and
9 it was a nice home.

10 Q But it was the kind of crime
11 scene where -- that you trained your
12 homicide detectives, they would be able to
13 find valuable evidence that would give
14 them indications of how the crime was
15 committed, correct?

16 A Again, I point to ideally if
17 we're not involved with something that has
18 to be handled expeditiously and right
19 away, we would have a three-person
20 walk-through. We would videotape, we
21 would photograph, we would recover
22 evidence. And then we would be able from
23 that to form some kind of a theory.

24 Q Right.

25 But this case was a little

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1 McElhone

2 different, right?

3 A Yes. He survived, we had a
4 surviving witness. He began telling a
5 story. The detective was trying to verify
6 that story.

7 Q So had you a suspect?

8 A No, not a suspect. At that
9 point, we had a surviving witness, and the
10 first responders.

11 Q Fair enough.

12 So you had a surviving witness
13 right away who, as you said, had survived
14 the attack?

15 A Apparently.

16 Q And certainly everybody was open
17 to the possibility that Marty may have had
18 something to do with the crimes, correct?

19 A You said everybody. I don't
20 know who you're talking about.

21 Q That's a good point.

22 Either way, the early homicide
23 detectives on the scene understood that
24 Marty was going to be a critical witness
25 whether he had anything to do with the

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1 McElhone

2 murders or not, correct?

3 A Yes.

4 Q It was very important to speak
5 with Marty as quickly as possible and find
6 out what he knew?

7 A Yes.

8 Q And also to be able to assess
9 the accuracy as the detectives spoke with
10 him, correct?

11 A Correct.

12 Q And so for that reason, it was
13 very important for detectives to be able
14 to walk around and make efficient quick
15 and accurate observations about what the
16 evidence at the scene showed, correct?

17 A Cursory inspections would be all
18 that we expected at that point. We'd
19 still want to process that scene, you want
20 to keep it as pristine as possible. We
21 wanted to verify certain things that he
22 had learned from interviewing the
23 surviving witness, and we wanted to check
24 and verify, get a lay of the land as well.

25 Q That sounds like you told me a

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1 McElhone

2 couple of things.

3 One thing is that you told me it
4 was important to verify the information
5 that Marty was giving, correct?

6 A Yes.

7 Q And that's something the
8 detectives were trained to understand even
9 before they met Marty, correct?

10 A Are we talking specifically in
11 this case or what?

12 Q I'm talking about this case, but
13 I'm talking about general principles of
14 homicide investigation.

15 So, in other words, the
16 detectives under your command were trained
17 that they needed to carefully observe what
18 the crime scene showed even before
19 interviewing Marty, correct?

20 A In certain cases. Each case
21 depended. Priorities change. If one
22 detective responds and he has a chance to
23 interview a living witness, that would
24 probably take priority over the crime
25 scene.

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1 McElhone

2 Q But Marty wasn't going anywhere,
3 right?

4 A Right. We want to contain him
5 and find out what he has to say.

6 Q Well, you're not suggesting --
7 MS. FREUDENBERGER: Withdrawn.

8 Q Maybe we can short circuit this
9 a little bit.

10 You're not suggesting that it
11 would have been improper for McCready to
12 do a walk-through of the crime scene
13 before he spoke to Marty?

14 A No.

15 Q It is your understanding that
16 that's what he did, correct?

17 A Yes.

18 Did you say before he talked
19 Marty?

20 Q Yes.

21 A I'm not sure at what point he
22 did the walk-through. It was my
23 understanding that after he talked to
24 Marty, he wanted to verify some of the
25 things that he said.

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1 McElhone

2 Q You understand that McCready
3 didn't multiple walk the crime scene?

4 A I don't know about multiple. I
5 know he did a walk-through.

6 Q We can mark this and you can go
7 through it if you like.

8 McCready documents in his
9 14-page investigative report that he did
10 an initial walk-through of the crime scene
11 before he ever spoke with Marty.

12 Do you dispute that?

13 A No, that was in his report.

14 Q And that certainly was
15 consistent with McCready's training,
16 correct?

17 A Yes.

18 Q Now, take a look at -- I'm going
19 to show you some testimony from Detective
20 McCready, and just read to me, if you
21 will.

22 MS. FREUDENBERGER: We should go
23 ahead and mark this. I'm sure it's
24 been marked in another deposition.
25 Let's mark it and I'll direct the

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1 McElhone
2 witness to a particular excerpt.
3 (Whereupon, Testimony of
4 Detective McCready, was marked as
5 McElhone Exhibit 14 for
6 identification, as of this date.)
7 BY MS. FREUDENBERGER:
8 Q Chief McElhone, take a look at
9 this deposition testimony. I'll represent
10 to you that this is deposition testimony
11 given by Detective McCready in the civil
12 case on December 11th of 2012, and it
13 concerns his walk-throughs of the Tankleff
14 crime scene before he -- before he left
15 the crime scene that morning with Marty
16 Tankleff?
17 A Okay.
18 Q And just read to yourself page
19 97, line 17 to 99, line 5.
20 (Witness reviewing document)
21 What McCready describes is
22 consistent with the except I read from
23 Mr. Geberth's book, correct?
24 MR. MITCHELL: Objection to the
25 form.

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1 McElhone

2 You can answer.

3 A Yes. Surveying the scene might
4 develop a hypothesis from that point.

5 Q And so assuming McCready's
6 testimony is accurate that he did, in
7 fact, investigate the scene and develop a
8 hypothesis about what may have occurred,
9 he was acting in accordance with his
10 training, correct?

11 A Yes.

12 Q And going back to the crime
13 scene for a second, the Tankleff homicide
14 scene was a contained crime scene,
15 correct?

16 A The door was unlocked, I
17 believe, but it was all within the home.

18 Q Does the door being unlocked
19 make it not a contained crime scene? Was
20 it or was it not?

21 A Your definition of contained may
22 be different than mine.

23 Q What is your definition of
24 contained?

25 A As it developed, all of the

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1 McElhone
2 evidence and all of the information we
3 obtained was from inside the house.

4 Q So whether or not it was
5 immediately apparent, it eventually became
6 apparent that the crime scene was a
7 contained crime scene?

8 A Yes.

9 Q And the police were on the scene
10 relatively close to the attacks, correct?

11 A Well, to the phone call.

12 Q And Seymour was still alive at
13 the time that the police arrived?

14 A Yes.

15 Q So does that signal to you that
16 the police were on the scene relatively
17 close in time of the attacks?

18 A No, I can't draw a conclusion
19 from that.

20 Q Did you come to an understanding
21 about Arlene Tankleff's time of death?

22 A No.

23 Q But you did come to understand
24 that by the time --

25 MS. FREUDENBERGER: Well,

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2 withdrawn.

3 Q You were aware that there was

4 a -- you're aware today as you sit here

5 that there was a poker game at the

6 Tankleff residence the night before the

7 attacks, correct?

8 A Yes.

9 Q And Seymour Tankleff was seen

10 alive as late as three in the morning,

11 correct?

12 A Yes.

13 Q On the morning of the crimes?

14 A Yes.

15 Q And the first responders got to

16 the scene at approximately 6:17 in the

17 morning, correct?

18 A That sounds about right.

19 Q So around about 3 hours and 15

20 minutes after Seymour Tankleff was last

21 seen alive, correct?

22 A Correct.

23 Q So would that tell you that the

24 police arrived at the crime scene

25 relatively close in time, within 3 hours

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1 McElhone

2 and 15 minutes of the attacks?

3 A Within 3 hours and 15 minutes,
4 yes.

5 Q And probably actually within
6 less time given the 911 call and the time
7 it took to respond, correct?

8 A I can't make that assumption.

9 Q Regardless, unlike a case where
10 somebody is shot in a public place or a
11 body is discarded in the woods, there are
12 actually a limited number of people who
13 had entered and exited the crime scene by
14 the time the first responders arrived.

15 Would that be fair to say?

16 A That would be my understanding,
17 yes.

18 Q And Arlene Tankleff's body was
19 still in the location where she had been
20 murdered, correct?

21 A Correct.

22 Q So for all of those reasons,
23 that made this homicide scene the kind of
24 homicide scene where detectives understood
25 that they were going to be able to find

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1 McElhone
2 evidence that would give them clues as to
3 how the crime was committed?

4 A That would be our goal.

5 Q As crime scenes go, this was a
6 dream crime scene in being able to gather
7 evidence and make determinations based on
8 what the evidence showed, correct?

9 MR. MITCHELL: Object to the
10 form.

11 You can answer.

12 Q Better than most would you say?

13 MR. MITCHELL: I object to the
14 form.

15 You can answer.

16 A It presented limited problems, I
17 would say.

18 Q Presented limited problems?

19 A Yes.

20 Q In other words, you understood
21 when you arrived at the Tankleff homicide
22 scene on the morning of September 7th that
23 as homicide scenes go, this one was likely
24 to pose only limited problems, if that,
25 when it came to the detective's ability to

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1 McElhone
2 draw conclusions based on the crime scene
3 evidence.

4 Fair to say?

5 MR. MITCHELL: Object to the
6 form.

7 You can answer.

8 A I wouldn't say that anybody can
9 draw conclusions at that point. That was
10 one of the things that I would want them
11 not to do to get focused in on one
12 particular area and to exclude any others.
13 It would be -- like I said, the crime
14 scene presented limited problems at that
15 point.

16 Q All right. I actually asked you
17 a different question though.

18 A Okay.

19 Q My question is about your
20 understanding of the crime scene when you
21 arrived at the house on the morning of
22 September 7th.

23 And you understand from looking
24 at this crime scene, given that it was a
25 contained scene, that the police had been

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1 McElhone
2 on the scene within three hours of the
3 attacks, that there were a limited number
4 of people to your knowledge who had
5 entered and exited the house in those
6 three hours between the attacks and when
7 the police arrived, and the fact that
8 Arlene Tankleff's body was in the place
9 where she was murdered, when it came to
10 the homicide detective's ability to learn
11 information about how the crimes occurred
12 from the scene itself, this was the kind
13 of crime scene as opposed to a public
14 homicide or a body found in the woods from
15 which the detectives were likely to be
16 able to glean information about how the
17 crimes took place.

18 Fair to say.

19 MR. MITCHELL: Object to the
20 form.

21 You can answer.

22 A I'm having trouble with your
23 questions that go for three paragraphs
24 there.

25 I agree with you to the point --

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1 McElhone

2 Q In that case -- actually, don't
3 answer the question, I'll just ask you
4 another question?

5 MS. FREUDENBERGER: I'll
6 withdraw the question.

7 Q It sounds like what you're
8 saying is that you don't understand the
9 question; is that correct?

10 MR. MITCHELL: Just wait, John.
11 Don't speak please.

12 This is for the record, so the
13 record is clear, because she is
14 fabulous, but I don't think she is
15 that good. I'm just saying that he
16 started his answer, my position is he
17 should be allowed to finish his
18 answer. If you want to withdraw your
19 question, fine. You have withdrawn
20 the question.

21 MS. FREUDENBERGER: I'll
22 withdraw the question.

23 Q I'll ask a different question
24 now that you told me you don't understand
25 my question.

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1 McElhone

2 MR. MITCHELL: Only one person
3 can talk at a time. Am I right about
4 that one?

5 Q There are all sorts of different
6 sorts of crime scenes, correct?

7 A Correct.

8 Q And some are better than others
9 when it comes to the information you can
10 glean from them, correct?

11 A Correct.

12 Q And homicides that happen in
13 public places present problems when it
14 comes to deducing information from them,
15 correct?

16 A There is always a chance of
17 contamination, right. What's not involved
18 in the homicide could be in a public place
19 so they drove in the wrong direction,
20 sure.

21 Q So as far as crime scenes go,
22 there were various features of this crime
23 scene that made it the kind of crime scene
24 where detectives were likely to be able to
25 get valuable information from the crime

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1 McElhone

2 scene, correct.

3 MR. MITCHELL: Object to the
4 form.

5 You can answer.

6 A At some point, there would be
7 information available to the detectives,
8 yes.

9 Q Because of the features of this
10 crime scene that we have described,
11 correct?

12 A Fingerprints, we could recover
13 blood evidence, we can look at is there a
14 forcible entry or not. All of those
15 things would eventually or quickly be
16 learned from the scene, yes.

17 Q And in other words, you
18 understood that on the morning of
19 September 7th, that as we discussed
20 because there was a contained crime scene,
21 because the police were on the scene
22 within approximately three hours of the
23 attacks, because there were a limited
24 number of people who had entered and
25 exited the scene, because Arlene

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1 McElhone
2 Tankleff's body appeared to be undisturbed
3 in the place where she had been murdered,
4 this was a crime scene as opposed to say a
5 homicide in a public place from which
6 detectives were likely to be able to glean
7 valuable information?

8 A At some point, yes, I do.

9 Q And you understood that when you
10 arrived at the house on September 7, 1988,
11 correct?

12 A Yes.

13 Q I think you testified at the
14 last day of your deposition that another
15 change you made to the homicide squad in
16 1987 was to encourage the detectives to
17 work more closely and collaboratively with
18 the medical examiner's office; is that
19 correct?

20 A The entire squad was going to do
21 it that way, yes.

22 Q Including the detectives?

23 A Oh, absolutely.

24 Q And was that another reason why
25 you had Dr. Hirsch come in to do trainings

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1 McElhone

2 with the detectives?

3 A Yes.

4 Q So they would be comfortable

5 interacting with members of the medical

6 examiner's team?

7 A Yes.

8 Q And because detectives actually

9 do need to work closely with the medical

10 examiner's office in the course of an

11 average homicide investigation, correct?

12 A The medical examiner's office

13 has two prongs. There is the medical

14 examiners that do the autopsies of the

15 body, and the crime lab that comes under

16 the direction of the medical examiner. So

17 more often with the crime lab than with

18 the MEs themselves, but we work closely

19 with both. It is a team effort.

20 Q And, for example, you would send

21 a detective to the medical examiner's

22 office for autopsies, correct?

23 A We covered the autopsies, yes.

24 Q And in this case, that was

25 Detective Ryan, correct?

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1 McElhone

2 A I don't know who it was.

3 Q But you wouldn't dispute that

4 Detective Ryan was sent to cover the

5 autopsy?

6 A I don't know. Someone would

7 cover the autopsy.

8 Q You have me reason to think it

9 was not Detective Ryan?

10 A No.

11 MR. MITCHELL: Do you know if it

12 was Detective Ryan?

13 THE WITNESS: No.

14 Q Do you know who it is one way or

15 the other?

16 A I don't, no.

17 Q Would you have known back in

18 1988?

19 A It wouldn't have been terribly

20 important. As long as it was covered. It

21 would probably be brought to my attention

22 if no one covered it. Otherwise, I would

23 assume that someone from my team covered

24 it.

25 Q My question is: In 1988, would

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1 McElhone
2 you have known who the detective was who
3 covered the autopsies in the Tankleff
4 case?

5 A I might have.

6 Q You don't know one way or the
7 other?

8 A No.

9 Q In any event, as you said, it
10 was important for a detective to cover the
11 autopsies in any homicide investigation,
12 correct?

13 A Correct.

14 Q And I gather there are a couple
15 of reasons for that.

16 For a variety of reasons, it is
17 important to make sure that the detectives
18 in a homicide investigation are fully
19 aware of the medical examiner's findings
20 on autopsy, correct?

21 A Yes.

22 Q And one reason for that is that
23 you want to make sure that detectives are
24 able to integrate information from the
25 medical examiner into the prosecution,

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1 McElhone

2 correct?

3 A Correct.

4 Q And because there is obviously a
5 difference in terms of evidentiary value
6 between what a homicide detective might
7 determine by looking at a body and what a
8 medical examiner is able to determine by
9 looking at a body, correct?

10 A Correct. And there is also a
11 written report eventually that we get from
12 the medical examiner, but sometimes they
13 take weeks, so if there is information, I
14 would like to get important information
15 right away.

16 Q You want to get important
17 information right away so you can follow
18 up on it, correct?

19 A Yes.

20 Q And if you're able to get
21 information from the medical examiner that
22 contradicts your working theory of the
23 case, that would be important for the
24 detectives to know, correct?

25 A Yes.

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2 Q Because that information would
3 need to be followed up on carefully,
4 correct?

5 A Correct.

6 Q And also if you -- and obviously
7 this is not always the case, but if
8 information, if the medical examiner made
9 findings that contradicted the working
10 theory of the case in a homicide
11 investigation, it would be important for
12 the detectives to relay that information
13 to the prosecutors right away, correct?

14 MR. MITCHELL: Objection to the
15 form.

16 You can answer.

17 A Yes.

18 Q Because that information could
19 be important Brady material, correct?

20 A You have to know about it, yes.

21 Q It can take weeks for a medical
22 examiner to issue a report, correct?

23 A Sometimes, yes.

24 Q And so detectives, homicide
25 detectives can't rely on the medical

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1 McElhone
2 examiner to bring information that
3 contradicts their working theory of the
4 case to the prosecutor's attention; that
5 obligation falls to the homicide
6 detectives, correct?

7 MR. MITCHELL: Objection to the
8 form.

9 You can answer.

10 A Yes.

11 Q One reason for that is that a
12 medical examiner is not going to be privy
13 to the same amount of information about an
14 investigation as the homicide detective,
15 correct?

16 A In most cases.

17 Q In most cases, the medical
18 examiner doesn't know what findings are
19 significant to the investigation and how,
20 correct?

21 MR. MITCHELL: I object to the
22 form.

23 You can answer.

24 A No, it wouldn't.

25 Q That's correct?

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2 A A lot of times, the same ME was
3 at the scene at the time that we removed
4 the body so he had certain information at
5 that point.

6 Q Right, clearly.

7 But, again, as you say, the
8 homicide detectives generally work more
9 closely with the crime lab prong of the
10 medical examiner's office than the medical
11 examiner, correct?

12 A Correct.

13 Q And a medical examiner is not
14 necessarily going to be kept up to date
15 about all the details of a homicide
16 investigation as they progress, correct?

17 MR. MITCHELL: Object to the
18 form.

19 You can answer.

20 A Not necessarily, no.

21 Q In other words, a homicide
22 detective, the homicide detective and not
23 the medical examiner is the person who is
24 going to know whether information comes
25 out of autopsy that contradicts the

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1 McElhone
2 working theory of the homicide case,
3 correct?
4 MR. MITCHELL: Objection to
5 form.
6 You can answer.
7 A Yes.
8 Q And it is not necessarily the
9 medical examiner's obligation to bring
10 exculpatory information that comes out at
11 the autopsy to the prosecutor's attention,
12 correct?
13 A To the homicide detective, it
14 would be done, yes.
15 Q It is the homicide's detective
16 obligation not the medical examiner's
17 obligation, correct?
18 A Correct.
19 Q And you made sure -- you talked
20 about the importance of disclosing Brady
21 material at the last day of your
22 deposition.
23 Do you remember that?
24 A Could you repeat that?
25 Q Do you remember at the last day

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1 McElhone

2 of your deposition discussing Brady

3 material?

4 A Exculpatory material, yes.

5 Q Exculpatory material.

6 And you understood obviously

7 back in the late 80s that police officers

8 had an obligation to disclose exculpatory

9 information?

10 A I don't know about in writing.

11 Q To disclose, to document and

12 disclose to the prosecution exculpatory

13 information, correct?

14 A Correct.

15 Q And that would include any

16 information that contradicted the working

17 theory of the prosecution, correct?

18 MR. MITCHELL: I object to the

19 form.

20 You can answer.

21 A Well, working theory --

22 Q We can move on. I actually

23 agree it is a vague question.

24 MR. MITCHELL: Are you

25 withdrawing the question?

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1 McElhone

2 MS. FREUDENBERGER: I'm

3 withdrawing the question.

4 We did go over Brady

5 obligations; again, it was covered at

6 your last deposition so I'm trying to

7 save time.

8 Q And the detectives in your squad

9 were trained. At least by the time of

10 this investigation in 1988, that they

11 couldn't rely on the medical examiner to

12 report exculpatory information from an

13 autopsy to the prosecution, correct?

14 MR. MITCHELL: Objection.

15 A I don't remember that particular

16 part of the training. If it came to their

17 attention through being at the autopsy,

18 they would make that information available

19 to the lead detective and to the

20 prosecutor.

21 Q And they had an obligation to

22 make that information available both to

23 the lead detective and the prosecutor,

24 correct?

25 A Yes.

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1 McElhone

2 Q And there's no question in your
3 mind that the detectives under your
4 command understood that obligation,
5 correct?

6 A Yes.

7 Q Obviously, you're aware that
8 Marty Tankleff confessed to the attacks on
9 his parents, correct?

10 A Correct.

11 Q And he confessed to both
12 bludgeoning them and cutting their throats
13 with a knife; is that accurate?

14 A That's correct.

15 Q And you understand that the
16 weapon that Marty Tankleff described using
17 to slit his parents throats was a knife
18 that was recovered from the kitchen
19 counter next to a watermelon, correct?

20 A Correct.

21 Q If I refer to that knife as the
22 watermelon knife, you'll understand what I
23 mean?

24 A Yes.

25 Q I'm going to show you some

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1 McElhone
2 testimony from Bernard Adams, the medical
3 examiner who conducted the Tankleff
4 autopsies.

5 Had you worked with Dr. Adams
6 prior to the Tankleff homicides?

7 A I knew of him, yes.

8 Q Had you worked with him?

9 A I'm not directly involved in any
10 of the cases. At symposium where
11 Dr. Hirsch was giving his training, I knew
12 of him. I believe maybe once or twice I
13 have directly called him on a case. I
14 don't remember.

15 Q So you had worked with him, but
16 not closely prior to 1988?

17 A Right.

18 Q I'm going to go ahead --

19 MS. FREUDENBERGER: Why don't we
20 mark Adam's deposition transcript at
21 well.

22 Q And I've indicated on the pages
23 for clarity the excerpts that I would like
24 you to read to yourself, sir, which is
25 191, line 22 to page 193, line 21 of the

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1 McElhone
2 August 5, 2014 deposition of Bernard Adams
3 in this case.

4 (Whereupon, Deposition
5 Transcript of Bernard Adams, was
6 marked as McElhone Exhibit 15 for
7 identification, as of this date.)

8 BY MS. FREUDENBERGER:

9 Q Just read that excerpt to
10 yourself, please.

11 (Witness reviewing document)

12 Now, what Dr. Adams appears to
13 be saying from this testimony is that he
14 determined that the autopsy -- that it's
15 not a reasonable possibility that the
16 watermelon knife was the weapon used to
17 murder the Tankleffs, and that he must
18 have communicated to the detectives at the
19 autopsy that the watermelon knife was
20 excluded as the murder weapon.

21 That is in substance what Adams
22 appears to be saying in this excerpt,
23 correct?

24 MR. MITCHELL: I object to the
25 form.

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2 You can answer.

3 A I don't think he is quite being
4 that strong about it. He said he doesn't
5 think it is a reasonable possibility. He
6 is not excluding anything at this point.

7 Q Well, the question is: The
8 question on page 192 is, "It would be fair
9 to exclude that?" And the answer is, "I
10 would agree that it is not a reasonable
11 possibility."

12 MR. MITCHELL: I object to the
13 form. The document speaks for itself.

14 On that point, I don't know if
15 Dr. Adams made any corrections. If
16 you notice, there is a question and
17 then I object.

18 MS. FREUDENBERGER: Can we do
19 this after?

20 MR. MITCHELL: No, because it
21 goes to --

22 MS. FREUDENBERGER: It doesn't.
23 Whether Adams made corrections to his
24 deposition --

25 MR. MITCHELL: I don't think you

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1 McElhone
2 read it correctly. I'm playing nice
3 here. I think the part you're talking
4 about -- I'm just talking about the
5 way you read the question. I don't
6 know if it is Dr. Adams' answer or
7 Mr. Schecht's question.

8 MS. FREUDENBERGER: I read the
9 question and then I read the answer.
10 I think it was clear. If it is not
11 clear, that's fine.

12 MR. MITCHELL: I understand. I
13 thought you were --

14 MS. FREUDENBERGER: We can talk.
15 Adams is going to come in and testify
16 for himself.

17 MR. MITCHELL: I'm talking about
18 the form of your question.

19 MS. FREUDENBERGER: I
20 understand, but I'm taking the issue
21 off the table.

22 Q Let me ask you this, Chief
23 McElhone: Have you -- had you worked
24 with?

25 MS. FREUDENBERGER: Sorry,

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1 McElhone

2 withdrawn.

3 Q John Collins was the prosecutor
4 who prosecuted Marty Tankleff for the
5 murders of his parents, correct?

6 A I'm not sure.

7 Q You didn't testify at
8 Mr. Tankleff's trial, correct?

9 A No.

10 Q Any idea why that was?

11 MR. MITCHELL: I'm sorry, what
12 was your question?

13 A After I left the homicide squad.
14 I'm not sure.

15 Q Any idea why that was?

16 A Oh, why. I'm sorry, I thought
17 you said when that was.

18 Q I said any idea why that was?

19 A That I didn't testify?

20 MR. MITCHELL: Wait, wait, wait.

21 I object.

22 You can answer. Go ahead.

23 A I was never called.

24 Q And I gather -- are you aware
25 that John Collins is now a judge?

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1 McElhone

2 A Yes.

3 Q I gather you have worked with
4 Judge Collins over the course of your
5 career?

6 A As an ADA, not as a judge.

7 Q As an ADA, you have worked with
8 Judge Collins?

9 A Yes, very close.

10 Q Any reason to doubt his
11 integrity?

12 A John Collins?

13 Q Yes.

14 A No.

15 Q Any reason to doubt his honesty?

16 A None.

17 Q He has a reputation as an honest
18 man with a great deal of integrity.

19 Fair to say.

20 MR. MITCHELL: Object to form.

21 You can answer.

22 A My opinion, yes.

23 Q And, in fact, wouldn't you agree
24 with that, having worked with him over the
25 course of your career, that that is, in

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1 McElhone
2 fact, his reputation in the legal
3 community in Suffolk County?

4 A I can't speak for the legal
5 community, but personally I know him to be
6 a very honest, very forthright individual.

7 Q But you're not sure what his
8 reputation is publicly?

9 A No.

10 Q Now, I will represent to you
11 that we don't have a transcript, it
12 happened yesterday, but your counsel is
13 free to contradict me.

14 Yesterday at his deposition in
15 this case, Judge Collins testified that he
16 was never made aware that Dr. Adams had
17 concluded there was no reasonable
18 possibility that the watermelon knife was
19 the instrument used to murder the
20 Tankleffs, and if that fact had been
21 brought to his -- that finding from
22 Dr. Adams had been brought to his
23 attention, he would have disclosed that
24 information to the defense attorney and
25 brought that information out at

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1 McElhone

2 Mr. Tankleff's trial, which he did not.

3 So I'm representing to you --

4 MS. FREUDENBERGER: Brian, we do

5 agree that's an accurate

6 characterization of Judge Collins'

7 testimony?

8 MR. MITCHELL: No.

9 MS. FREUDENBERGER: You would

10 not agree to that?

11 MR. MITCHELL: No.

12 MS. FREUDENBERGER: All right.

13 Q Now, if my representation of the

14 testimony is accurate, and --

15 MS. FREUDENBERGER: Well,

16 withdrawn.

17 Q If Dr. Adams, the medical

18 examiner had made a finding in 1988 or

19 1989, between the point in time of Marty

20 Tankleff's confession and the trial, that

21 there was no reasonable possibility that

22 the watermelon knife, which Mary described

23 in his confession using to murder his

24 parents, was, in fact, the murder weapon,

25 that finding would have directly

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1 McElhone
2 contradicted an important aspect of
3 Mr. Tankleff's confession, correct?

4 MR. MITCHELL: Object to the
5 form.

6 You can answer.

7 A If that was transmitted to a
8 detective two days after this confession,
9 it would have contradicted that knife.

10 Q Well, let's just start with the
11 findings.

12 If Adams did make that finding
13 that there was no reasonable possibility
14 that the watermelon knife was used to
15 commit the murders, that finding from
16 Dr. Adams would have directly contradicted
17 one way Marty described committing the
18 murders in his confession, correct.

19 MR. MITCHELL: Object to the
20 form.

21 You can answer.

22 A If that was conveyed, yes.

23 Q Let's leave aside convey. Let's
24 just stick with the finding.

25 If Marty said I killed my

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1 McElhone
2 parents with a watermelon knife and that
3 wasn't used, Dr. Adams' finding would
4 directly contradict one aspect of Marty's
5 confession, correct?

6 A Yes.

7 Q And one very significant aspect
8 of Marty Tankleff's confession, correct?

9 MR. MITCHELL: Objection to
10 form.

11 You can answer.

12 A It would be significant, yes.

13 Q And so given that contradiction
14 on a significant issue, if Adams did, in
15 fact, make a finding that there was no
16 reasonable possibility that the watermelon
17 knife was used to kill the Tankleffs, that
18 contradiction with Marty's confession
19 would have to be both documented and
20 thoroughly explored, correct?

21 MR. MITCHELL: Object to the
22 form.

23 You can answer.

24 A Yes, Dr. Adams would have to
25 document that in the autopsy report, and

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1 McElhone

2 it would be related to the prosecutor,

3 yes.

4 Q And the detectives in addition
5 would have an obligation to document --

6 MS. FREUDENBERGER: Well,
7 withdrawn.

8 Q The detectives would have an
9 obligation to look into why it was that
10 the confession describes using a murder
11 weapon that the medical examiner has said
12 would not be the murder weapon, correct?

13 MR. MITCHELL: Objection to
14 form.

15 You can answer.

16 A That would be an area that would
17 have to be explored.

18 Q A critically important area to
19 explore, correct?

20 A Yes.

21 Q Okay.

22 And certainly if that finding
23 were, in fact, made, it would
24 constitute -- in the context of this
25 investigation, it would constitute Brady

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1 McElhone
2 information that would have to be related
3 to the prosecutor, correct?

4 MR. MITCHELL: Objection to the
5 form.

6 You can answer.

7 A I'm not an attorney, but we
8 would make it known to the district
9 attorney.

10 Q You're not an attorney, but on
11 of homicide detective's obligations is to
12 understand -- well, is to have a working
13 enough, thorough enough understanding of
14 what constitutes exculpatory information
15 to be able to make judgments about what
16 they are obligated under the law to
17 disclose to the prosecution, correct?

18 A We disclose everything to the
19 prosecutors. We work very closely
20 together.

21 Q What I'm asking is a little
22 different. I'm talking about Brady
23 obligations.

24 You understood in 1988 that
25 police officers, investigators had an

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1 McElhone
2 obligation to disclose particular
3 categories of information to the
4 prosecution, correct?

5 A As I said, we disclose all of
6 our information to the prosecutor.

7 Q I understand that was the policy
8 in the homicide squad.

9 A He can sort out what's Brady and
10 what's opinion, which I think in this case
11 is what we're looking at.

12 Q But you don't have an obligation
13 as a homicide detective to give all
14 information to the prosecutor. I
15 understand you're saying that was the
16 homicide squad's policy, but you only have
17 a legal -- Brady was a legal obligation,
18 correct?

19 A Yes.

20 Q A legal obligation incumbent on
21 police officers, correct?

22 A Yes.

23 Q And that legal obligation only
24 applies to some information gathered in a
25 homicide investigation, correct?

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1 McElhone

2 MR. MITCHELL: Object to the
3 form.

4 You can answer.

5 A Again, I wouldn't want to be the
6 person to say this is Brady, this is not
7 Brady. We bring it to the attorney's
8 attention.

9 Q You know, I think I understand
10 what you're saying.

11 It sounds to me like what you're
12 saying is that your policy was any time
13 anything even could be considered Brady,
14 you handed it over, correct?

15 A Yes.

16 Q And you trained your detectives
17 to take a very liberal view of Brady
18 evidence, correct?

19 A Yes.

20 Q If something conceivably could
21 be exculpatory, you would give it to the
22 prosecutors and let them make the
23 determination, correct?

24 A Yes.

25 Q Certainly you understood that

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1 McElhone
2 any information that was arguably
3 exculpatory had to be given to the
4 prosecution, correct?

5 A Yes.

6 Q And the detectives under your
7 command understood that, correct?

8 A Yes.

9 Q It is a basic principle of
10 criminal investigations?

11 A Yes.

12 Q So no question in your mind that
13 if Adams had made a finding that the
14 watermelon knife described in Marty's
15 confession could not have been the murder
16 weapon, but there was no reasonable
17 possibility that the watermelon knife
18 could have been the murder weapon, that
19 would have constituted Brady information
20 that the detectives under your command
21 would have been obligated to give to the
22 prosecutor, correct?

23 MR. MITCHELL: Objection to the
24 form.

25 You can answer.

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2 Q If he made that finding.

3 A If he made that finding, I would
4 expect to find it in his written report
5 that we would certainly make part of the
6 case file. That would be disclosed to the
7 defense, district attorney, everyone.

8 Q But you just told me a minute
9 ago that the detectives under your command
10 could not rely on the medical examiner --

11 A They could rely on it. They
12 didn't want to wait two or three weeks for
13 it.

14 Q Let's be clear, because that
15 sounds like something that contradicts
16 what you told me a few minutes ago.

17 You told me a few minutes ago
18 that the detectives under your command had
19 an obligation to turn over exculpatory
20 information that came out of the autopsy
21 to the prosecutor, and could not rely on
22 the medical examiner to discharge that
23 obligation for them, correct? That's what
24 you said under oath a few minutes ago?

25 A Yes.

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1 McElhone

2 Q And so the fact that a medical
3 examiner is doing a report down the line
4 does not take care of the detectives --

5 MS. FREUDENBERGER: Well,
6 withdrawn.

7 Q So given that testimony which
8 you just gave, in this case, if Dr. Adams
9 did make a finding that there was no
10 reasonable possibility that the watermelon
11 knife was the knife used to murder the
12 Tankleffs, the detective at the autopsy
13 had an obligation to bring that to the
14 prosecution's attention, correct?

15 MR. MITCHELL: Objection to the
16 form.

17 You can answer.

18 A Yes.

19 Q And if it came to -- and you
20 also mentioned that the detective at the
21 autopsy had an obligation to transmit any
22 exculpatory findings or any findings --

23 MS. FREUDENBERGER: Withdrawn.

24 Q I think you also told me that in
25 that situations where a medical examiner

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1 McElhone
2 made a finding that contradicted the
3 working theory, the homicide's working
4 theory of the case, that in addition to
5 having an obligation to disclose that
6 finding to the prosecutor, the detective
7 at the autopsy had an obligation to
8 disclose that finding to lead detective,
9 correct?

10 A Yes.

11 Q And in this case, the lead
12 detective was Detective McCready, correct?

13 A Yes.

14 Q And so if Adams did, in fact,
15 make a finding that there was no
16 reasonable possibility that the watermelon
17 knife was the knife used to murder the
18 Tankleffs, that is a fact that given the
19 way that the homicide squad worked,
20 Detective McCready would have been aware
21 of as well as the detective present at the
22 autopsy, correct?

23 MR. MITCHELL: If that was.

24 MS. FREUDENBERGER: If Adams did
25 make that finding.

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2 A Yes.

3 MR. MITCHELL: Wait. Objection
4 to the form.

5 You can answer.

6 A Yes.

7 Q And if, in fact, it had come to
8 either the attention of the detective at
9 the autopsy or Detective McCready's
10 attention that the medical examiner,
11 Dr. Adams, had determined there was no
12 reasonable possibility that the watermelon
13 knife was the knife used to murder the
14 Tankleffs, and neither the detective at
15 the autopsy nor Detective McCready
16 disclosed that finding to the prosecution,
17 that would be a grossly improper departure
18 from policy and procedure, correct?

19 MR. MITCHELL: I object to the
20 form.

21 You can answer.

22 A If that finding is as definitive
23 as he says now, it should have been in his
24 report. It would have been an easy
25 transfer of information.

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2 Q Okay, but --

3 A To answer your question: Yes,
4 if it was that definitive and that strong
5 and strongly conveyed to the detective, it
6 would have got back to Detective McCready
7 and should have gotten to the ADA.

8 Q And if Detective McCready and
9 the detective at the autopsy both failed
10 to communicate that finding to the
11 prosecution, that would be a gross
12 departure from policy and procedure,
13 correct?

14 MR. MITCHELL: Object to the
15 form.

16 You can answer.

17 A It would be a departure,
18 absolutely.

19 Q It would be a very serious
20 departure from policy and procedure,
21 correct?

22 A As I go back to tell you,
23 whatever we have, we share with the
24 district attorney. Whatever we have, this
25 is how we have it, this is where it's

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1 McElhone

2 documented.

3 Q These are homicide cases, very
4 serious cases, correct?

5 A Absolutely.

6 Q And if a detective failed to
7 turn over to the prosecutor the fact that
8 the medical examiner had determined the
9 weapon described in a suspect's confession
10 couldn't have been used to commit the
11 crime the way the suspect describes, and
12 the detectives didn't turn that
13 information over to the prosecution, are
14 you not willing to say that would be a
15 gross departure from policy and procedure?

16 MR. MITCHELL: Object to the
17 form.

18 You can answer.

19 A Yes, it would be.

20 Q And if it had come to your
21 attention that Adams made this finding
22 that there is no reasonable possibility
23 the watermelon knife could have been used
24 to commit the crimes the way that Marty
25 Tankleff's confession describes, and the

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2 detectives under your command had learned
3 of that finding and failed to communicate
4 it to the prosecution, I take it that that
5 would be extraordinary troubling to you as
6 the commander of the homicide unit,
7 correct?

8 MR. MITCHELL: Objection to
9 form.

10 You can answer.

11 A If I had known it was
12 exculpatory information that was not
13 disclosed, yes, it would be very troubling
14 to me.

15 Q You would, I assume, immediately
16 investigate or direct the appropriate
17 authorities to investigate how that could
18 have happened, correct?

19 A Yes.

20 Q And I gather that also would
21 cause you, if it came to your attention
22 that that had, in fact, transpired, to
23 look very carefully at all of the other
24 police work that had been done in
25 connection with the confession in this

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2 case, correct?

3 MR. MITCHELL: Object to the
4 form.

5 You can answer.

6 A I would review everything, yes.

7 Q And you would review it very
8 carefully and critically, correct?

9 A Yes.

10 Q And certainly you never
11 disclosed to or reported to --

12 MS. FREUDENBERGER: Withdrawn.

13 Q Well, certainly you never
14 reported to any of the prosecutors
15 involved in the Tankleff homicide that
16 Dr. Adams had made a finding that there
17 was no reasonable possibility that the
18 watermelon knife was used to murder the
19 Tankleffs, correct?

20 A I did not.

21 Q And I gather if it was brought
22 to your attention that Dr. Adams made a
23 finding that there was no possibility that
24 the watermelon knife had been used to
25 murder the Tankleffs, you would have

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1 McElhone

2 disclosed that in the prosecution,

3 correct?

4 MR. MITCHELL: Objection to

5 form.

6 You can answer.

7 A Yes.

8 Q And it never came to your

9 attention that Dr. Adams made a finding

10 that there was no possibility that the

11 watermelon knife was used to murder the

12 Tankleffs?

13 A No.

14 Q From any source?

15 A No.

16 Q Did you ever hear any skepticism

17 from any source that the watermelon knife

18 might not have been the knife used to

19 murder the Tankleffs?

20 MR. MITCHELL: Objection to

21 form.

22 You can answer.

23 A Not that I can recall, no.

24 Q Did Sergeant Doyle ever express

25 that to you?

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2 A Not that I can recall.

3 Q Is that the kind of thing that
4 you probably would have remembered today
5 given that it was the murder weapon
6 described in the confession?

7 MR. MITCHELL: Objection to the
8 form.

9 You can answer.

10 A Yes, I would remember if it was
11 definitively said that this was not the
12 knife. You know, there was other theories
13 out there. There was other theories that
14 we talked about, but I don't recall
15 anything about the knife.

16 Q And you worked closely with
17 Doyle, correct?

18 A Yes.

19 Q Particularly right when -- well,
20 you actually brought Doyle in when you
21 took control of the homicide squad,
22 correct?

23 A That's right.

24 Q And you brought him in because
25 you believed that he was an excellent

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2 supervisor, correct?

3 A Yes.

4 Q And you believed that he had a
5 great deal of integrity, correct?

6 A Yes.

7 Q You believe he was skilled to
8 manage homicides detectives, right?

9 A Yes.

10 Q And Doyle was the primary
11 supervisor on this investigation, correct?

12 A That's correct.

13 Q He was supervising the
14 day-to-day work in the investigation?

15 A Uh-huh.

16 Q So if Doyle, for whom you
17 appeared to have a great deal of respect
18 and who was actively involved in the
19 day-to-day supervision of the
20 investigation, had come to you and said,
21 hey, I have doubts about whether the
22 watermelon knife was used to murder the
23 Tankleffs as the Marty Tankleff's
24 confession describes, that's the kind of
25 thing you would remember, correct?

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2 MR. MITCHELL: Objection to
3 form.

4 You can answer.

5 A Yes.

6 Q And you would have directed
7 further investigation, correct?

8 A As far as we can go, yeah.

9 Q So that never happened?

10 MR. MITCHELL: Object to the
11 form.

12 You can answer.

13 A No.

14 Q Chief McElhone, we spoke earlier
15 about some of your obligations or some of
16 your responsibilities when it came to
17 communicating with the press.

18 Do you remember that?

19 A Yes.

20 Q In your experience, in a major
21 investigation, there is generally one
22 person who is the police department's
23 spokesperson concerning that
24 investigation.

25 Would that be a fair way to

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1 McElhone
2 characterize your role in this
3 investigation?

4 (Discussion held off the record)

5 BY MS. FREUDENBERGER:

6 Q Going back a minute to the
7 watermelon knife.

8 If it had come to your attention
9 that Adams had made a finding that there
10 was no reasonable possibility that the
11 watermelon knife was the weapon used to
12 murder the Tankleffs, that's
13 information --

14 MS. FREUDENBERGER: Well, you
15 know what, withdrawn.

16 Q You were aware of the phenomenon
17 of false confessions by 1988, correct?

18 A Yes.

19 Q In other words, you knew that
20 sometimes people admit to crimes they
21 haven't committed, correct?

22 A Yes.

23 Q And you also understood that
24 particular categories of people were more
25 at risk for giving false confessions,

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1 McElhone

2 correct?

3 MR. MITCHELL: Object to the
4 form.

5 You can answer.

6 A I think they would be more
7 likely in certain cases.

8 Q And people with intellectual
9 disabilities are more likely to give false
10 confessions, correct?

11 MR. MITCHELL: Objection to
12 form.

13 You can answer.

14 A Yes.

15 Q Juveniles are more likely to
16 give false confessions, correct?

17 MR. MITCHELL: Objection to
18 form.

19 You can answer?

20 A If they were under 16, their
21 parents would be present.

22 Q If juveniles are under 16, there
23 are rules that govern their interrogation,
24 correct?

25 A Yes.

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2 Q And you understood one reason
3 for those rules is that juveniles are at a
4 higher risk for giving false confessions;
5 is that correct?

6 A I'm not sure if that is the
7 reason, but it sounds reasonable.

8 Q You had heard in 1988 that
9 juveniles were at a greater risk than
10 adults for giving false confessions?

11 A I don't recall. I don't have a
12 list of exactly who it would be, but the
13 phenomenon was out there.

14 Q But the phenomenon was out
15 there?

16 A Yes.

17 Q And if it had come to your
18 attention that the medical examiner had
19 made a finding that there was no
20 reasonable possibility that the watermelon
21 knife, the murder weapon described in
22 Marty Tankleff's confession, had been used
23 to commit the crime, that is a fact that
24 would suggest to you that you at least had
25 to explore whether Marty Tankleff had

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1 McElhone
2 given a false confession, correct?

3 MR. MITCHELL: Objection to
4 form.

5 You can answer.

6 A Or was not the knife used or
7 discarded or gotten rid of. There are a
8 number of scenarios on that.

9 Q There are a number of reasons
10 that you would have to look very closely
11 at the confession in this case if Adams
12 had made that finding, correct?

13 A I would have to look at the
14 whole thing --

15 MR. MITCHELL: Wait. Object to
16 the form.

17 You can answer. Go ahead and
18 answer.

19 Q You don't have to take a close
20 look at the whole investigation, correct?

21 A Yes, exactly.

22 Q And one thing you would have to
23 look at is whether there was a possibility
24 that Marty Tankleff had given a false
25 confession, correct?

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1 McElhone

2 A That would be one of the things

3 if that happened, yes.

4 Q If Adams had made that finding

5 that there was no reasonable possibility

6 that the watermelon knife was used to kill

7 the Tankleffs as Marty's confession

8 described, you would have to -- because of

9 that finding, you would have to look

10 carefully at whether Marty Tankleff had

11 given a false confession, correct?

12 MR. MITCHELL: Objection to the

13 form.

14 You can answer.

15 A That would be one of the things

16 that I would look at. First thing I would

17 look at is --

18 Q Can you answer my question

19 first?

20 MR. MITCHELL: Let him finish

21 his answer.

22 MS. FREUDENBERGER: I will, but

23 I want to make sure he answers the

24 question.

25 MR. MITCHELL: Let him finish

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1 McElhone
2 the answer. You keep interrupting his
3 answer.

4 MS. FREUDENBERGER: I don't want
5 to move to strike it. I'm trying to
6 make sure we have a clear answer to my
7 question.

8 MR. MITCHELL: Let him finish
9 and he will give you a clear answer.

10 MS. FREUDENBERGER: Could you
11 read back the question and answer
12 please.

13 (Record read)

14 Q If Adams had, in fact, made a
15 finding that there was no reasonable
16 possibility that the watermelon knife was
17 used to kill the Tankleffs as Marty's
18 confession described, you would have to
19 look at whether Marty had given a false
20 confession, correct? You would have to
21 look into whether Marty had given a false
22 confession, correct?

23 MR. MITCHELL: Objection to the
24 form.

25 You can answer.

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1 McElhone

2 A That would be one of the things
3 that I would look at.

4 Q And that finding, if Adams did
5 in fact make it and it came to your
6 attention, would require you to look
7 carefully into the reliability of Marty
8 Tankleff's confession, correct?

9 MR. MITCHELL: Object to the
10 form.

11 You can answer.

12 Q Among other things.

13 A I would review the whole thing,
14 yes.

15 Q And you would review -- you
16 would review all of the police work that
17 had been done in the case to date to make
18 sure that you didn't have an innocent
19 suspect on your hands, correct?

20 MR. MITCHELL: Object to the
21 form.

22 You can answer.

23 A I would let the district
24 attorney know that we had this fact and we
25 would look at everything in the entire

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1 McElhone

2 case, yes.

3 Q Including all of the police work
4 that had been done in the case, correct?

5 A Yes.

6 Q And you would pay particular
7 attention, I gather, to the process by
8 which the confession came about, correct?

9 A I had already known how that
10 came about, but I would look at it again,
11 yes.

12 Q And you would certainly question
13 the two detectives that had been involved
14 in taking the confession, McCready and
15 Ryan, correct?

16 A Yes.

17 Q And specifically you would
18 undertake to question them again about the
19 process they used throughout Marty
20 Tankleff's interrogation, correct?

21 A Yes.

22 Q I think you just mentioned that
23 you had already gone through the process
24 of questioning McCready and Ryan about how
25 the confession came about in this case; is

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2 that correct?

3 A No. You said if I had learned
4 of Dr. Adams' definitive findings, would I
5 have done that.

6 Q I think you said I had already
7 done that.

8 A I had knew how that confession
9 came to be, absolutely.

10 Q If had you learned that Adams
11 had made a finding that the watermelon
12 knife couldn't have been used to kill the
13 Tankleffs, I assume, and correct me if I'm
14 wrong, that you would have looked
15 carefully and with some skepticism at what
16 McCready and Ryan had told you about how
17 the confession came about, correct?

18 MR. MITCHELL: Objection to the
19 form.

20 You can answer.

21 A In that case, my first
22 skepticism would be with Dr. Adams. I
23 have been through numerous stabbing cases
24 and I have yet to find an ME anywhere who
25 would say, oh, that's definitely the

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1 McElhone
2 knife. It is not a bullet that gets
3 matched to a gun.
4 You have discussions where it
5 could be you have other expert evidence
6 and say, it could have been a glass
7 bottle, it could have been a razor, it
8 could have been anything. But my very
9 first problem would have been call Dr.
10 Adams, and ask how can you be so sure, all
11 the training I have had and all the
12 experience with these rarely, unless there
13 is blood on the knife or fingerprints on
14 the knife, can you really make that
15 determination? And then all of this would
16 be certainly broiled up and brought to
17 everyone's attention at that point.

18 Q And as you say, it is rare for a
19 medical examiner to be able to say
20 definitively, I know this was the knife if
21 there was no blood on it, correct?

22 A Yes.

23 Q If though Adams did make the
24 finding, if you learned -- you're the
25 commander of the homicide squad, and you

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1 McElhone
2 learned that Adams had made a finding that
3 it couldn't be the watermelon knife and
4 communicated that to the detectives and
5 the detectives had failed to disclose that
6 to the prosecutor, I gather you would have
7 revisited carefully and with some
8 skepticism McCready and Ryan's accounts of
9 how the confession came into being.

10 Is that fair?

11 MR. MITCHELL: Objection to
12 form.

13 You can answer.

14 A If I wasn't aware of it and the
15 sergeant wasn't aware of it, I would be
16 very concerned and I would look at the
17 whole case.

18 Q Including in particular the
19 process that McCready and Ryan described
20 as to how the process came into being,
21 correct?

22 MR. MITCHELL: Objection to
23 form.

24 You can answer.

25 A Yes.

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2 Q And by the way, if the sergeant
3 had been aware of that finding and hasn't
4 communicated it to the prosecutor, that
5 would cause you equal, if not additional
6 concern, correct?

7 A Absolutely.

8 Q Because in your role as
9 commander of the homicide squad, you have
10 to depend on the sergeant below you who is
11 supervising the day-to-day of the homicide
12 investigation to make sure that the
13 homicide squad's policies and procedures
14 are rigorously followed, correct?

15 A Absolutely.

16 Q Now, Chief McElhone, you
17 understand as soon as the Tankleff murders
18 happened that the investigation into their
19 attacks was going to be very high profile,
20 correct?

21 MR. MITCHELL: Objection to the
22 form.

23 You can answer.

24 A Yes.

25 Q It was a case that was certain

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1 McElhone

2 to attract significant media attention,

3 correct?

4 A Yes.

5 Q Certain to attract a great deal

6 of public scrutiny, correct?

7 MR. MITCHELL: Object to the

8 form.

9 You can answer.

10 A Yes.

11 Q And Marty becoming a suspect in

12 his parents' death made the investigation

13 even more sensitive, correct?

14 MR. MITCHELL: I object to the

15 form.

16 You can answer.

17 A That added to it. It was a

18 horrific crime in an upscale neighborhood.

19 Q But certainly the Tankleffs' son

20 being the primary suspect --

21 A He was arrested.

22 Q -- in their attacks, it ensured

23 that the case would receive even more

24 media attention than it was already bound

25 to receive.

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2 Is that fair to say?

3 MR. MITCHELL: I object to the
4 form.

5 You can answer.

6 A I can't speak to the media.

7 There was a lot of media attention,
8 because of the nature of the crime and
9 where it was.

10 Q And I assume you understood that
11 there was likelihood that Marty would
12 retain very experienced criminal defense
13 counsel, correct?

14 MR. MITCHELL: Objection to the
15 form.

16 You can answer.

17 A At some point, yes.

18 Q Given just Marty's means alone,
19 it was likely that Marty was going to
20 retain a criminal defense lawyer who was
21 going to take the case very seriously,
22 correct?

23 MR. MITCHELL: Object to the
24 form.

25 You can answer.

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2 A That was a very dim concern of
3 mine at that point, in fact no concern of
4 mine actually at that point. The case was
5 what it was.

6 Q I'm not asking whether it was of
7 concern to you. I'm asking if you
8 realized that it was likely that the
9 17-year-old very affluent kid who was
10 accused and arrested for murdering his
11 parents was going to retain a defense
12 lawyer who was going to pursue the defense
13 very doggedly?

14 MR. MITCHELL: Object to the
15 form.

16 You can answer.

17 A Any homicide case that goes to
18 trial usually has a very dogged defense
19 attorney. So it occurred to me that they
20 would probably get a good one, one of the
21 better ones.

22 Q So the investigation would also
23 receive additional attention from Marty's
24 defense attorney, correct, that was
25 apparent to you?

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1 McElhone

2 MR. MITCHELL: Object to the
3 form.

4 You can answer.

5 A I don't know what the defense
6 attorney would do.

7 Q I'm just asking whether you
8 expected back in 1988 that this homicide
9 investigation in particular was going to
10 receive a lot of scrutiny from a lot of
11 different angles.

12 Is that fair to say?

13 A Most of ours did, but, yes,
14 okay.

15 Q This one in particular though,
16 correct?

17 A I had Richard Angelo who killed
18 20 people. You know, I had high profile
19 cases all over the place.

20 Q Fair enough.

21 A It didn't cause me a concern one
22 way or the other.

23 Q So you were actually very
24 experienced with working with the press in
25 sensitive high profile homicide cases,

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1 McElhone

2 correct?

3 A Around that time, I had 18
4 months in, yeah, I would say that's fair
5 to say.

6 Q And one reason that there is one
7 point person in the homicide investigation
8 who communicates with the press is to make
9 sure that the message coming from the
10 police department about a sensitive high
11 profile homicide investigation is
12 controlled, correct?

13 MR. MITCHELL: Objection to the
14 form.

15 You can answer.

16 A Yes. But pre-arrest, I would be
17 the person, and post-arrest, it is now the
18 district attorney's call. So we don't
19 make any press conferences or anything
20 after that.

21 Q So pre-arrest, it is you
22 speaking with the press, but nobody else
23 from the police department?

24 A Police department speaking for
25 the police department. In this case, I'm

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1 McElhone
2 not sure if it was me or it could have
3 been the chief or something. I'm not
4 sure.

5 Q In any event, it is one high
6 ranking supervisor that communicates with
7 the press pre-arrest, correct?

8 A Yes.

9 I should say post-arraignment,
10 then the DA takes over after that.

11 Q Okay.

12 And so my point is simply up
13 until the point in time when the DA takes
14 over, the reason that there is one person
15 from the police department speaking to the
16 press is so that the message -- the
17 information released to the press and the
18 message coming from the police department
19 can be controlled, correct?

20 MR. MITCHELL: Objection to the
21 form.

22 You can answer.

23 A Yes.

24 Q You don't want different
25 detectives out there talking to reporters

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1 McElhone

2 without one higher up being able to

3 control what's being said, correct?

4 A Correct.

5 Q And then once the DA's office

6 takes over speaking with the press, you

7 said that happens after arraignment,

8 correct?

9 A Uh-huh.

10 Q And at that point, the police

11 department stops speaking to the press;

12 there's a policy on that?

13 A Yes.

14 Q And what you've just described

15 having one person speaking with the press

16 up to arraignment, and then having the

17 police department stop speaking with the

18 press after arraignment, that was Suffolk

19 County Police Department policy at the

20 time of the Tankleff murder investigation,

21 correct?

22 A Yes.

23 Q And this case was unusual.

24 We'll get more into this in a minute.

25 This case was unusual in that

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1 McElhone
2 there was a subsequent missing person's
3 investigation that the homicide squad also
4 was involved in, correct?

5 A Yes.

6 Q And that was the investigation
7 into the disappearance of Jerry Steuerman,
8 correct?

9 A Correct.

10 Q And there was a determination
11 made that missing persons was permitted to
12 communicate with the press regarding the
13 missing person's investigation, correct?

14 A Correct.

15 Q But other than the
16 communications coming from the District
17 Attorney's office and the communications
18 from the missing persons unit, the only
19 other person authorized to speak with the
20 press about any aspect of the Tankleffs
21 homicide in a related investigation was
22 you, correct?

23 A Actually in 1988, Commissioner
24 Guido had come on board in early 1988 and
25 he had a public information bureau around

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1 McElhone
2 the clock. I think we had Lieutenant
3 Kiley, and I think he had a sergeant and a
4 couple of other police officers working
5 for them. They would certainly be able to
6 do it.

7 But in a homicide case, they
8 would probably call upstairs to us and say
9 this is the question, do you want me to
10 answer it or can you answer it? An ADA is
11 a little bit different.

12 Q Okay. I understand.

13 But other than the public
14 information bureau that Guido instituted,
15 the missing persons unit --

16 A They were the lead in that.

17 Q -- the District Attorney's
18 office and yourself, nobody else from
19 Suffolk County Police Department was
20 authorized to speak with the press about
21 the Tankleff homicides or related
22 investigations, correct?

23 MR. MITCHELL: Object to the
24 form.

25 You can answer.

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1 McElhone

2 A Not that I'm aware of, no.

3 MR. MITCHELL: When you want to
4 take a break, just let me know.

5 MS. FREUDENBERGER: Let me
6 finish a couple more questions about
7 this topic.

8 MR. MITCHELL: How long do you
9 think you're going to be?

10 MS. FREUDENBERGER: Let me look
11 at my outline.

12 MR. MITCHELL: Only because I
13 thought you only had 2 hours and 50
14 minutes. We were at 4:10 the last
15 time.

16 MS. FREUDENBERGER: But we got
17 14 hours from the court.

18 MR. MITCHELL: For him?

19 MS. FREUDENBERGER: Yes. I'm
20 not going to go 14 hours, but --

21 MR. MITCHELL: I didn't realize
22 that. I thought we had seven hours
23 with him.

24 MS. FREUDENBERGER: Let me
25 finish this line of questioning.

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1 McElhone

2 Q Given the sensitive and high
3 profile nature of this investigation and
4 given your experience dealing with the
5 press and high profile homicide cases by
6 the time of the Tankleff homicides, I
7 assume, correct me if I'm wrong, that you
8 were very careful when it came to the
9 information that you disseminated to the
10 press in connection with this
11 investigation, correct?

12 A Yes.

13 Q In other words, you were very
14 careful not to reveal any information to
15 the press until you were completely
16 satisfied concerning its reliability,
17 correct?

18 A Frequently at the scene when it
19 is first happening, I don't have all that
20 information so it would be very cursory.

21 Q That is a good point and I'll
22 phrase the question differently.

23 You were very careful not to
24 reveal any information to the press in
25 this case unless you were absolutely

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1 McElhone
2 certain you had no doubts concerning that
3 information's reliability?
4 A I wasn't testifying when I'm
5 talking to the press so it is not beyond a
6 reasonable doubt. And I might be
7 answering a question, and every once in a
8 while, I would stumble and someone would
9 ask me something and I'd say, oh, I wish I
10 hadn't of said that.

11 Q I think we all do that.
12 But for a variety of reasons,
13 you were careful not to affirmatively
14 offer any information to the press if you
15 had any doubts about its reliability.

16 Would that be fair to say?

17 A Yes, that would be fair to say.

18 Q In other words, you made sure
19 that you were satisfied before you gave
20 information to the press that that
21 information was reliable to the best of
22 your ability, correct?

23 A That's correct.

24 Q Did the department have a policy
25 in place at the time of the Tankleff

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1 McElhone
2 murder investigation concerning press
3 releases when they were issued?

4 A It wasn't hard and fast. It
5 was, again, Commissioner Guido had a very
6 open policy with the press. He believed
7 let's keep them off our back, let's give
8 them everything we can when we can. The
9 only policy was an investigative area, if
10 it was an homicide squad, narcotics squad,
11 whatever, they would be responsible for
12 the contents of the press release.

13 Q I understand.

14 And when exactly did Guido take
15 office?

16 A I would guess first of January
17 '88, right after the election of '87.

18 MS. FREUDENBERGER: Off the
19 record.

20 (Thereupon, a recess was taken,
21 and then the proceedings continued as
22 follows:)

23 BY MS. FREUDENBERGER:

24 Q Chief McElhone, although Arlene
25 Tankleff was pronounced dead at the scene

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1 McElhone
2 on September 7, 1988, Seymour Tankleff did
3 not die from his injuries right away,
4 correct?

5 A Right.

6 Q He survived for a number of
7 weeks?

8 A Correct.

9 Q And both Marty Tankleff and some
10 of his family members expressed to members
11 of the homicide squad early on in the
12 investigation that they believed
13 Mr. Tankleff's business partner Jerry
14 Steuerman was involved in the attacks,
15 correct?

16 A Yes.

17 Q And on September 14, 1988,
18 approximately a week after the attacks on
19 the Tankleffs, Jerry Steuerman faked his
20 own death and fled the jurisdiction,
21 correct?

22 A I'm not sure if that is the
23 exact date, but yes.

24 Q But Jerry Steuerman did fake his
25 own death and flee the jurisdiction while

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1 McElhone
2 Seymour Tankleff was still alive, correct?
3 A I think his car was found
4 running and abandoned and then we were all
5 summoned to his attorney's office where
6 there was a note to be opened in the event
7 that something happened to him, and it was
8 kind of disbursing his assets at that
9 point.

10 Q Right. In other words, you
11 understood that Jerry Steuerman -- we can
12 go through it all if we need to, but you
13 understood that Jerry Steuerman
14 deliberately took steps to make it appear
15 that when he fled the jurisdiction, he had
16 been either kidnapped or murdered,
17 correct?

18 MR. MITCHELL: Object to the
19 form.

20 You can answer.

21 A Or it could have been a suicide.
22 It was open at that point. We had no idea
23 what was really going on with him.

24 Q Fair enough.

25 A But either way, Jerry Steuerman

JOHN MCELHONE
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1 McElhone
2 had taken steps to make his disappearance
3 look like he had died in some manner or
4 another, correct?

5 MR. MITCHELL: I object to the
6 form.

7 You can answer.

8 A I don't know what he was
9 thinking. It was an open investigation at
10 that point. Was he kidnapped, did he
11 commit suicide, somebody killed him, or
12 did he just flee? Rather quickly, we kind
13 of figured on he's just out on a trip.

14 Q I'm asking you. It wasn't just
15 like he just picked up and decided to go
16 on vacation, right?

17 A No, no.

18 Q In other words --

19 A It was under crazy
20 circumstances.

21 Q He took particular steps to
22 ensure that it appeared that his leaving
23 the jurisdiction looked like he had either
24 been kidnapped or killed, correct?

25 MR. MITCHELL: Object to the

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1 McElhone

2 form.

3 You can answer.

4 Q You understood that he had taken
5 steps to deliberately make it look that
6 way?

7 MR. MITCHELL: Object to the
8 form.

9 You can answer.

10 A I think that is was his
11 intention. As I said, I don't think we
12 went with that theory very long.

13 Q But, for example, he had altered
14 his appearance before he left, correct?

15 A I learned of that later, yes.

16 Q And he had left his car running
17 with I believe a sneaker in front of it?

18 A I don't remember that part.

19 Q You remember his car was found
20 running?

21 A I think it was the following
22 day. We were summoned to the attorney's
23 office where he had this letter.

24 Q He had left a letter with his
25 lawyer, Mike Grundfast, and had given him

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1 McElhone

2 instructions that it should only be

3 opened --

4 A If something happens to me.

5 Q If something happened to him,

6 right.

7 The police department determined

8 relatively quickly, as you say, that, in

9 fact, Steuerman had staged his own

10 disappearance, correct?

11 A It took a little while, but it

12 was just a theory at that point.

13 Q At what point did your theory --

14 well, at some point, you began operating

15 on a theory that he was still alive and

16 had taken steps to make it appear like he

17 had --

18 A First thing we did was put phone

19 traps on people he would contact. So we

20 certainly thought at that point he was

21 alive and he would make some kind of

22 contact.

23 Q So at some point, your theory

24 became he is alive, he deliberately made

25 it look like something happened to him and

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1 McElhone
2 he left the jurisdiction, correct?

3 A If it was a legitimate
4 kidnapping, one of these people would be
5 contacted so it would be the first logical
6 step.

7 Q Okay.

8 At what point in time did the
9 police department determine that or did
10 the police department's theory become that
11 Jerry Steuerman was, in fact, alive?

12 A I believe it was a phone call to
13 his girlfriend at the time, where there
14 was just a one word message that she took
15 to mean that he was alive.

16 Q He used a code word, correct,
17 pistacio?

18 A Yes, pistacio. And through
19 that, we were able to trace that it came
20 from Los Angeles and that he --

21 Q Right. But I gather that --

22 MR. MITCHELL: I know you know
23 his answer. Let him finish.

24 Q Finish your answer.

25 A I thought I did.

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MARTIN TANKLEFF vs. SUFFOLK COUNTY

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1 McElhone

2 Q But prior to the pistacio phone
3 call, for lack of a better way of putting
4 it, I gather the working theory in the
5 police department was already that he was
6 still alive, correct?

7 A Yes. It is a very public place.
8 There was no witness to see him dragged
9 off Veterans Highway there.

10 Q And, in fact, the police
11 interviewed --

12 MS. FREUDENBERGER: Withdrawn.

13 Q In fact, homicide detectives
14 interviewed a clerk at the hotel where he
15 had a habit of frequenting, correct?

16 A Yes.

17 Q And that clerk reported to the
18 detectives that he had -- that he had
19 checked out of the hotel after altering
20 his appearance, correct?

21 A That's right, yes.

22 Q And specifically he shaved his
23 facial hair and took off all his signature
24 jewelry, correct?

25 A I remember that he had shaved

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MARTIN TANKLEFF vs. SUFFOLK COUNTY

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1 McElhone

2 off a beard or whatever and his hair.

3 Q And I gather you also learned

4 close in time --

5 MS. FREUDENBERGER: Well,

6 withdrawn.

7 Q You were present at the initial

8 meeting at Mike Grunfast's office where

9 the letter Steuerman had left his children

10 was opened, correct?

11 A Yes.

12 Q And to your knowledge, was that

13 the first meeting of police personnel at

14 Mike Grunfast's office?

15 A Yes.

16 Q And at some point close in time

17 to that meeting --

18 MS. FREUDENBERGER: Well,

19 withdrawn.

20 Q Actually before that meeting,

21 the homicide squad had learned that Jerry

22 Steuerman owed Seymour Tankleff a

23 substantial amount of money, correct?

24 A I believe, yes.

25 Q And Jerry Steuerman's son, Todd,

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1 McElhone
2 was an individual who was known to the
3 Suffolk County Police Department, correct?

4 MR. MITCHELL: Just time, around
5 when?

6 MS. FREUDENBERGER: Fair point.

7 MR. MITCHELL: Back then?

8 Q Well, prior to the meeting in
9 Mike Grunfast's office, in fact, Jerry
10 Steuerman's son, Todd, was an individual
11 known to the Suffolk County Police
12 Department?

13 A Not to me individually, but I
14 knew he had a son, who had a problem, that
15 he was arrested once before.

16 Q You knew he had a son with a
17 criminal record, correct?

18 A Yes.

19 Q And close in time to that
20 meeting at Mike Grunfast's office, the
21 police department received a tip that Todd
22 Steuerman was, in fact, dealing cocaine
23 out of his father's bagel store, correct?

24 MR. MITCHELL: Object to the
25 form.

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1 McElhone

2 You can answer.

3 A I remember seeing that in my
4 review, but I don't remember it actually
5 happening at that point.

6 Q But you don't dispute that
7 happening; you just don't remember
8 learning that information at the time?

9 A No.

10 MR. MITCHELL: I'm sorry, I
11 didn't hear your question.

12 Q You don't dispute that
13 happening; you just don't remember
14 learning that information at the time as
15 you sit here today?

16 MR. MITCHELL: Thank you.

17 Q Correct?

18 A Correct.

19 MS. FREUDENBERGER: Let's go
20 ahead and mark the missing person's
21 file.

22 (Whereupon, Missing Person's
23 File, was marked as McElhone Exhibit
24 16 for identification, as of this
25 date.)

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1 McElhone

2 BY MS. FREUDENBERGER:

3 Q Maybe we can short circuit this.

4 You understood early on based

5 only on Marty Tankleff telling homicide

6 detectives that he believed Steuerman was

7 behind his father's murder, his family

8 members telling detectives they believed

9 Steuerman was behind his parents' murder,

10 and the fact that Steuerman owed Seymour

11 Tankleff a substantial amount of money,

12 that Steuerman was somebody who at a

13 minimum had to be considered and ruled out

14 as a suspect in the attacks on the

15 Tankleffs; would you agree?

16 A No.

17 Q No?

18 A No. I know he was offered up by

19 Martin right from the get-go.

20 Q And the family members?

21 A There was division in the

22 family. Some didn't believe it was Marty

23 at all and some we're going along with why

24 don't you look at this guy.

25 And what was the third part of

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1 McElhone

2 it?

3 Q Third part was he owed money.

4 A He owed money. Obviously they
5 were business partners, they were involved
6 in business. He owed him money.

7 Q You understand from your career
8 as a detective and high ranking supervisor
9 that owing money is in some cases a motive
10 for murder, correct?

11 A In some cases.

12 Q And so just based on the
13 information the police had, not on the
14 information that was later developed, but
15 based on the information that the police
16 had, Steuerman at a minimum had to be
17 looked at and ruled out as a suspect,
18 correct?

19 A I believe it had already
20 happened.

21 Q So your understanding was that
22 Steuerman -- was that the homicide squad
23 did look at Steuerman and rule him out as
24 a suspect, correct?

25 A That's correct.

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1 McElhone

2 Q That's what the detectives under
3 your command reported to you, correct?

4 A Yes.

5 Q That's what Sergeant Doyle
6 reported to you, correct?

7 A Yes.

8 Q I think the word in the report
9 was that Steuerman had been thoroughly
10 questioned and looked at and ruled out as
11 a suspect.

12 Is that in substance generally
13 what was reported to you?

14 A He was at the card game. He had
15 offered up an alibi that he had forgot his
16 keys, had to knock on his daughter's door
17 to let him in. That was a very strong
18 alibi at that point.

19 Q Do me a favor and listen to my
20 question carefully.

21 All I'm asking you right now is
22 that Doyle and others under your command
23 reported to you that homicide had looked
24 at Jerry Steuerman carefully and ruled him
25 out as a suspect, correct?

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1 McElhone

2 A At that point, yes.

3 Q And they had done that

4 thoroughly, correct?

5 A As thoroughly as it could be

6 done, yes.

7 Q And so by the time that

8 Steuerman went missing, your understanding

9 from Sergeant Doyle and others in the

10 homicide squad was that the homicide squad

11 had thoroughly investigated Jerry

12 Steuerman as a suspect and determined that

13 he had not been involved in any way in the

14 Tankleff attacks, correct?

15 A To that point, that was my

16 information, right.

17 Q At that time when Jerry

18 Steuerman went missing, that's what Doyle

19 and others under your command had reported

20 to you, correct?

21 A Correct.

22 Q And obviously you trusted Doyle

23 that when he said homicide had thoroughly

24 investigated Steuerman as a suspect that,

25 in fact, it happened, correct?

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1 McElhone

2 A That we had eliminated him as a
3 suspect.

4 Q And investigated him thoroughly
5 before doing so, correct?

6 A The word "thoroughly" is causing
7 me hesitation. As well as could be
8 expected at that point. It is a week
9 after the homicide at that point. He
10 wasn't there that night other than the
11 card game.

12 Q Of course it was a week after
13 the homicide, but obviously, if there is
14 somebody who has been named by some family
15 members of the deceased as a possible
16 player in the attacks, and you know that a
17 substantial amount of money is owed, which
18 in some circumstances can be a motive for
19 murder, you have to as thoroughly as is
20 feasible look at that person as a suspect,
21 correct?

22 A Correct.

23 Q And certainly that was true of
24 Jerry Steuerman under these circumstances,
25 correct?

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1 McElhone

2 A Correct.

3 Q And the fact that Marty Tankleff
4 was under arrest doesn't change homicide's
5 obligation to thoroughly investigate other
6 suspects that come up, correct?

7 A Again your word "thoroughly". I
8 don't know how far you want to go with
9 that.

10 Q As thoroughly as possible under
11 the circumstances.

12 A Yes.

13 Q In fact, I'm sure you're
14 familiar with the concept of tunnel
15 vision?

16 A Television?

17 Q Tunnel vision, yes.

18 A Yes.

19 Q Tell me what tunnel vision means
20 to you.

21 MR. MITCHELL: Objection to the
22 form.

23 You can answer.

24 A You have an theory and idea in
25 mind and you eliminate any other

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1 McElhone

2 possibilities and you pursue that.

3 Q And tunnel vision is a widely
4 understood concept in policing?

5 A Absolutely.

6 Q And it is very important and it
7 is an important principle in any homicide
8 investigation to avoid tunnel vision at
9 all costs, correct?

10 A Correct.

11 Q The last thing you want to do is
12 ignore important evidence because it
13 contradicts your working theory of a
14 crime, correct?

15 A Correct.

16 Q That's the sort of behavior that
17 can cause innocent people to be wrongly
18 convicted and guilty people to go free,
19 correct?

20 MR. MITCHELL: Object to the
21 form.

22 You can answer.

23 A That would be a big problem,
24 yes.

25 Q And so for that reason and

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1 McElhone
2 others, it was important to investigate
3 Steuerman as a suspect as thoroughly as
4 possible notwithstanding Marty's arrest,
5 correct?

6 MR. MITCHELL: Objection to the
7 form.

8 You can answer.

9 A Yes.

10 Q And you understood from Doyle
11 and others under your command that that
12 had happened prior to Steuerman even going
13 missing, correct?

14 A Correct.

15 Q And as the commander of the
16 homicide squad, it is not your
17 responsibility to go back and redo the
18 work that detectives and sergeants under
19 your command have already done, correct?

20 A Correct.

21 Q One of the reasons that the
22 chain of command works is that you rely on
23 the sergeants below you to make sure that
24 the detectives below them are doing their
25 work thoroughly and documenting it

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1 McElhone

2 accurately, correct?

3 A Correct.

4 Q And so when I say "investigated

5 Steuerman as thoroughly as possible", I

6 take it you would agree that the

7 detectives and sergeant under your command

8 had an obligation to actually take

9 affirmative steps to investigate

10 Steuerman, correct?

11 MR. MITCHELL: Object to the

12 form.

13 You can answer.

14 A Yes.

15 Q In other words, it would have

16 been improper to simply say, you know

17 what, the case against Marty looks pretty

18 good, I'm sure this guy didn't have

19 anything to do with it, and not do

20 anything affirmative to investigate him,

21 correct?

22 MR. MITCHELL: Objection to the

23 form.

24 You can answer.

25 A Correct.

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1 McElhone

2 Q It was important to question

3 Steuerman thoroughly, correct?

4 A Yes.

5 Q It was important to look into

6 Steuerman's finances, correct?

7 A At some point.

8 Q It was important to look at

9 Steuerman's close family members and

10 associates, particularly after the

11 information about Todd came to light,

12 correct?

13 MR. MITCHELL: Objection to

14 form.

15 You can answer.

16 A I don't know how far we would go

17 with that, but there would be something

18 out there.

19 Q Something that homicide would

20 have to look at, correct?

21 A To a degree.

22 Q To some degree, correct?

23 A To some degree.

24 Q And certainly given Todd

25 Steuerman's criminal record and --

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MARTIN TANKLEFF vs. SUFFOLK COUNTY

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1 McElhone

2 MS. FREUDENBERGER: Withdrawn.

3 Q Let's actually take a look at --

4 if you would, do you see the numbers on

5 the bottom right-hand corner of that

6 document?

7 A Yes.

8 Q If you would just take a look at

9 page SCDA3203.

10 A I have AGs here. What is it?

11 Q All right. If you don't mind, I

12 can find it just very easily.

13 So I'm going to direct your

14 attention to the entry dated 9-22-88 on

15 page AG5380 of the marked copy, and it is

16 the highlighted paragraph starting

17 "Anonymous male caller".

18 Let me know when you have read

19 that.

20 A Okay.

21 (Witness reviewing document)

22 Okay.

23 Q So given this -- assuming that

24 homicide did receive this tip as it is

25 reflected on this document, obviously for

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1 McElhone
2 ten different reasons, Jerry Steuerman's
3 connections with his son Todd are
4 something that would have to be at a
5 minimum looked into by homicide before
6 Steuerman is ruled out as a suspect,
7 correct?

8 A This is a call that was in
9 response to the missing person's report,
10 but it was forwarded to Sergeant Pepper of
11 homicide. It would have been passed to
12 Doyle and he would have looked at it, yes.

13 Q And you expected that this tip
14 would be looked into carefully given the
15 seriousness of allegations there, correct?

16 A Again, it is an anonymous call.
17 It is information that Todd was arrested
18 for drug use and drug dealing or whatever,
19 and it would be something else to discuss
20 a missing person case.

21 Q Well, just to be clear, I'm not
22 talking about the missing person's case.
23 I'm talking about the thorough
24 investigation that had to be done to rule
25 Steuerman out as a suspect.

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MARTIN TANKLEFF vs. SUFFOLK COUNTY

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1 McElhone
2 This doesn't say that Todd had a
3 record for dealing cocaine. It states
4 that his father was there with him,
5 correct, that he had a very tight
6 relationship with his father, and that
7 their last business venture they were
8 working on together was a warehouse,
9 correct?

10 A That's what it says here, yes.

11 Q And so no doubt in your mind
12 that this is -- the information contained
13 in this tip had to be thoroughly
14 investigated in connection with ruling
15 Steuerman out as a suspect, correct?

16 MR. MITCHELL: Objection to the
17 form.

18 You can answer.

19 A It has to be looked at
20 obviously, yes.

21 Q And if this information -- you
22 mentioned that maybe this was information
23 that the police department already had.
24 If homicide had not already had this
25 information, you would expect them to look

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MARTIN TANKLEFF vs. SUFFOLK COUNTY

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1 McElhone
2 at it carefully and reconsider whether
3 Steuerman should be treated as a suspect
4 notwithstanding the results of the earlier
5 investigation, correct?

6 MR. MITCHELL: Object to the
7 form.

8 You can answer.

9 A It would be is there enough
10 there to overcome what originally you
11 ruled him out as a suspect, his alibi.

12 Q You would have to look at
13 whether this situation had overcame what
14 had ruled him out as a suspect?

15 A It could be background on what
16 we're dealing with.

17 Q It could be, in other words,
18 this could be important for a lot of
19 different reasons, correct?

20 A Yes.

21 Q And one reason it could be
22 important is that it required detectives
23 to look at it and reconsider whether
24 Steuerman should be treated as a suspect.

25 Fair to say?

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MARTIN TANKLEFF vs. SUFFOLK COUNTY

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1 McElhone

2 MR. MITCHELL: I object to the
3 form.

4 You can answer.

5 A I don't know if there is enough
6 information there to overcome the
7 original.

8 MS. FREUDENBERGER: Brian, can
9 you stop looking at that for a second?
10 We just inadvertently marked the wrong
11 copy of the document. I apologize.

12 MR. MITCHELL: Okay. I didn't
13 see anything good.

14 (Witness reviewing document)

15 Q You have now looked at the
16 document. I can read it to you if we need
17 to.

18 In other words, even though --
19 even after your Sergeant had reported to
20 you that Steuerman had been thoroughly
21 investigated and ruled out as a suspect,
22 this anonymous tip from your perspective
23 was important for homicide to investigate
24 for several reasons, including that if the
25 information had panned out, it could be

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1 McElhone
2 cause for reconsidering whether Steuerman
3 was ruled out as a suspect, correct?

4 MR. MITCHELL: I object to the
5 form.

6 You can answer.

7 A It is something that would have
8 to be addressed, have to be looked at.

9 Q Notwithstanding the fact that
10 Steuerman had already been ruled out as a
11 suspect, correct?

12 A Right.

13 Q And, again, I gather Doyle
14 reported to you that that did, in fact,
15 happen?

16 A I don't recall.

17 Q But certainly this tip isn't the
18 kind of thing that you would let go.
19 Somebody below you in the chain of command
20 must have reported to you that this
21 information was investigated, correct?

22 A Not to me directly. It would
23 have been reported to Sergeant Doyle we
24 looked at that.

25 Q And Doyle would have informed

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1 McElhone

2 you that this had been looked into?

3 A If it was germane. To me, an
4 anonymous caller on a well-publicized case
5 for anybody in the world to see said could
6 have been the bagel guy, you know, it
7 didn't really -- it wasn't hard evidence
8 there that would have caused me a lot of
9 problems with it.

10 Q You already said it would have
11 had to be investigated?

12 A Yes.

13 Q All I'm asking you now is: You
14 must have had some assurance from somebody
15 below you at the time that it was, in
16 fact, looked at?

17 A Okay, yes.

18 Q And if you found out that, in
19 fact -- I'm not suggesting you did -- but
20 if you found out that, in fact, Steuerman
21 had never been considered as a suspect --

22 MS. FREUDENBERGER: Withdrawn.

23 Q If it came to your attention in
24 the course of this homicide investigation
25 that --

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1 McElhone

2 MS. FREUDENBERGER: Withdrawn.

3 Q If it came to your attention
4 that, in fact, the reports you were
5 getting from those below you in the chain
6 of command that Steuerman had been
7 thoroughly investigated and ruled out as a
8 suspect were false, and, in fact, homicide
9 had never considered Steuerman as a
10 suspect, that is a fact I take it that
11 would cause you great concern, correct?

12 MR. MITCHELL: Object to the
13 form.

14 You can answer.

15 A I would be concerned that you
16 could rule out anybody in that early stage
17 of the investigation.

18 Q Particularly anybody whom you
19 knew had been named as a possible suspect
20 by some family members and --

21 A By the defendant.

22 Q And some family members?

23 A Okay. Some of them, not
24 directly to me, but I had read some --

25 Q Well, you knew, as you already

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1 McElhone
2 told me, that some of Marty Tankleff's
3 family members had reported to the police
4 that Jerry Steuerman was behind the
5 murders, correct; you did know that?

6 A Yes, published reports. Nothing
7 evidentiary.

8 Q You learned that information
9 from some sources, correct?

10 A Correct.

11 Q So given that information, given
12 that Steuerman owed Seymour Tankleff a
13 substantial amount of money, and given the
14 information known to the police about Todd
15 Steuerman's connection to serious crime,
16 you would agree that if your sergeant and
17 the detectives below him were reporting to
18 you that they had looked at this
19 individual and never considered him
20 whether he was a suspect or not, or never
21 looked into him as a suspect, that would
22 cause you great concern, correct?

23 A I would be concerned, yes.

24 Q And just to be crystal clear, it
25 was reported to you from those below you

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1 McElhone
2 in the chain of command that Jerry
3 Steuerman had been considered as a suspect
4 and ruled out on the attacks on the
5 Tankleffs, correct?

6 MR. MITCHELL: I object to the
7 form.

8 You can answer.

9 A Yes.

10 MS. FREUDENBERGER: The food is
11 here so let's take a break.

12 (Thereupon, a recess was taken,
13 and then the proceedings continued as
14 follows:)

15 A F T E R N O O N S E S S I O N

16 (Time noted: 2:31 p.m.)

17 J-O-H-N M-c-E-L-H-O-N-E, resumed and
18 testified as follows:

19 EXAMINATION BY (Cont'd.)

20 MS. FREUDENBERGER:

21 Q Chief McElhone, you assumed
22 command of the homicide squad in February
23 of 1987; is that right?

24 A Yes, correct.

25 Q And as commander of the homicide

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1 McElhone
2 squad, you had a number of administrative
3 responsibilities in addition to your
4 participation in active homicide
5 investigations, correct?

6 A Yes.

7 Q And my guess, correct me if I'm
8 wrong, is that those administrative
9 responsibilities took up even more time
10 given the relative turmoil that department
11 had been in prior to you assuming command
12 of the unit.

13 Would that be fair to say?

14 MR. MITCHELL: Objection to
15 form.

16 You can answer.

17 A I don't think it was an
18 inordinate amount of time.

19 Q But a new chief came in in
20 January of '88?

21 A New commissioner.

22 Q New commissioner?

23 A And a new chief, yes, you're
24 right.

25 Q So there was some significant

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1 McElhone
2 turnover in the higher branches of the
3 police department early on in your tenure,
4 correct?

5 A Well, it would have been about a
6 year into it.

7 Q So shortly before the Tankleff
8 murders, there was a new commissioner
9 coming in, a new chief coming in, and you
10 yourself were relatively new, correct?

11 MR. MITCHELL: Objection to the
12 form.

13 You can answer.

14 A At that point, I had been there
15 nine months, and by the time the Tankleff
16 case came in, I would have been there a
17 year-and-a-half.

18 Q And so was there work you were
19 involved in to facilitate the transition
20 in leadership that were going on?

21 A Not really, no.

22 Q What about the SIC hearings, did
23 the public hearings start shortly after
24 Marty's arrest?

25 A They were before.

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1 McElhone

2 Q The public hearings too?

3 A Yes. 1986, I believe.

4 Q Was there still -- I think the

5 dates -- I'll represent to you that the

6 dates as we have them are January 20 and

7 29th of 1987, and January 13th and 14th of

8 1988.

9 Does that sound plausible to

10 you?

11 A I don't remember 1988, but I

12 guess so.

13 MR. MITCHELL: If you don't

14 know, don't guess.

15 Q Was there still fallout from

16 those hearings going on at the time of the

17 Tankleff investigation?

18 MR. MITCHELL: Object to the

19 form.

20 You can answer.

21 A Not within the homicide squad.

22 Q So there was no work for you to

23 be doing in connection with the SIC

24 hearings at that time?

25 A No.

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MARTIN TANKLEFF vs. SUFFOLK COUNTY

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1 McElhone

2 Q And you mentioned that there
3 were a number of high profile, other high
4 profile cases that you were involved in
5 prior to Marty's case.

6 Was the angel of death
7 investigation one that you referred to?

8 A Yes.

9 Q And that was -- that
10 investigation was still going on by
11 September of 1988, wasn't it?

12 A Yes.

13 Q And did that take up a portion
14 of your time?

15 A Oh, sure.

16 Q A relatively substantial portion
17 of your time?

18 A I had to bring in a couple of
19 extra detectives just to work on that
20 case.

21 Q And you were even more activity
22 involved in that case than you were in the
23 Tankleff homicide case?

24 A No, that's not right. Actually,
25 when they made the arrest of Richard

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1 McElhone
2 Angelo, I was at the FBI Academy. When I
3 came home, we were going to the point of
4 discovering other bodies, basically
5 exhuming people that he might have
6 injected and killed.

7 Q But you were involved in that
8 while the Tankleff investigation was going
9 on?

10 A Yes.

11 Q And there were other homicide
12 investigations going on parallel to the
13 Tankleff investigation that you had
14 supervisory responsibilities in connection
15 with, correct?

16 A Yes.

17 Q So in other words, on like
18 Sargeant Doyle, you didn't have the time
19 to supervise the day-to-day of this
20 investigation, correct?

21 A Correct.

22 Q And that wasn't your role,
23 correct?

24 A No.

25 Q Other than administrative

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1 McElhone
2 responsibilities and some responsibilities
3 in connection with active homicide
4 investigations, tell me what your other
5 responsibilities as commander of the
6 homicide squad were.

7 A An overall command of all of the
8 people assigned. That includes discipline
9 and what team they were in, monitoring
10 overtime, the expenses, equipment that was
11 assigned to the homicide squad.

12 Q So you had personnel
13 responsibilities, correct?

14 A Yes. I guess I was the primary
15 liaison between the District Attorney's
16 homicide bureau and the homicide squad,
17 also with the medical examiner,
18 Dr. Hirsch, and the lab, Vin Crispino was
19 the head of the lab. I would be the
20 primary liaison with that.

21 We touched on press relations
22 early on. I would be dealing with press
23 inquiries pretty much exclusively unless
24 it was post-arraignment like we said
25 earlier.

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1 McElhone
2 Keep the chief and the
3 commissioner appraised of activities and
4 significant happenings in the homicide
5 squad. Also with the sergeants on the
6 individual cases, review their cases,
7 review their paperwork, discuss with them
8 tactical things, how we might approach
9 this case or that case.

10 Q So although you were available
11 as a resource to sergeants and had
12 supervisory responsibility in individual
13 cases, your actual involvement in the
14 investigation of particular homicides was
15 by design rather limited, correct?

16 A Yes. Oversight.

17 Q And would it be fair to say with
18 a sergeant like Doyle, whom you knew and
19 trusted, you made sure he was keeping you
20 informed of all the critical developments
21 you were aware of, but when it came to the
22 nitty-gritty of the day-to-day, you waited
23 for him to come to you?

24 A That would be a fair assessment.

25 Q And you understood that he would

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1 McElhone
2 do so if anything significant transpired
3 in the investigation that you needed to be
4 made aware of, correct?

5 A Correct.

6 Q In other words, you trusted
7 Doyle to do that?

8 A Absolutely.

9 Q On this investigation as on all
10 others, correct?

11 A Yes.

12 Q On the Tankleff investigation,
13 Doyle had direct supervisory authority
14 over the detectives working on the case,
15 correct?

16 A Correct.

17 Q He had obligation to sign off on
18 their reports, correct?

19 A Correct.

20 Q When signing off, I'm going by
21 what I know from other police departments,
22 correct me if I'm wrong, when a sergeant
23 signs off on a detective's report, he is
24 signing off on the fact that the
25 information contained in the report is to

JOHN MCELHONE
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1 McElhone
2 the best of his knowledge complete and
3 accurate, correct?

4 MR. MITCHELL: Object to the
5 form.

6 You can answer.

7 A Correct.

8 Q So in other words, in signing
9 his name to another detective's report,
10 Doyle was verifying that he had spoken
11 with that detective, correct?

12 A Not necessarily, but it would
13 be -- that it was correct and accurate as
14 I said earlier.

15 Q And complete too, in other
16 words, he was verifying that all of the
17 information that detectives had --

18 MS. FREUDENBERGER: Withdrawn.

19 Q Let's just talk about a report
20 of an interview.

21 If Doyle was signing off in this
22 case on a report of an interview, by
23 signing off on the report authored by one
24 of the detectives, Doyle was verifying
25 that he -- that the report contained all

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1 McElhone
2 of the pertinent information gathered from
3 that interview, correct?

4 A Correct.

5 Q I mean he had an obligation to
6 determine, in fact, before he would sign
7 that report that the report did contain
8 all the pertinent information from that
9 interview, correct?

10 A Correct.

11 Q And you trusted him to do that
12 without you going back and talking to
13 detectives and checking their notes and
14 things like that, correct?

15 A Exactly.

16 Q It sounded earlier, and correct
17 me if I'm wrong, that you are pretty sure
18 as you sit here today that Jerry Steuerman
19 was not involved in the attacks on the
20 Tankleffs; is that right, or are you not
21 sure?

22 A No, I'm sure that he was not.

23 Q So other than your -- other than
24 the reports that you received from those
25 below you in the chain of command that

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1 McElhone
2 they investigated Steuerman as a suspect
3 and ruled him out, tell me the other
4 reasons that you believe Steuerman was not
5 involved.

6 A He was on the stand for three
7 days, cross examined vigorously. There
8 was nothing that ever came out of that
9 that differed from what we understood and
10 what we had verified during our
11 investigation.

12 Q But he wasn't obviously a
13 defendant in the case when he was on the
14 stand, correct?

15 A No.

16 Q And Marty Tankleff's criminal
17 defense lawyer didn't have all the
18 resources that a district attorney or a
19 police department has to conduct
20 investigations, correct?

21 MR. MITCHELL: Objection to
22 form.

23 You can answer.

24 A I don't know if that is correct
25 or not, whatever he had and whatever he

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MARTIN TANKLEFF vs. SUFFOLK COUNTY

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1 McElhone

2 needed as far as resources.

3 Q Well, for example, criminal
4 defense attorneys don't have subpoena
5 power, correct?

6 MR. MITCHELL: Objection to the
7 form.

8 You can answer if you know.

9 A I don't know.

10 Q You don't know whether criminal
11 defense attorneys have subpoena power?

12 A I thought they did.

13 Q In criminal cases, okay.

14 They don't have the power to
15 offer witnesses plea deals, correct?

16 A Correct.

17 Q Or cooperation agreements,
18 correct?

19 A Correct.

20 Q So one reason that you don't
21 believe that Steuerman was involved in the
22 crime is because you didn't feel that he
23 was proven -- that any involvement on his
24 part was proven in the three days he was
25 on the stand in Marty's trial, correct?

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MARTIN TANKLEFF vs. SUFFOLK COUNTY

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1 McElhone

2 MR. MITCHELL: Objection to the
3 form.

4 You can answer.

5 A That was in addition to what you
6 asked me earlier. When we ruled him out
7 in the homicide squad through his alibi
8 and through other discussions that we had
9 with him, through finding him in
10 California, spending two days with him
11 where they were bringing him home, he was
12 thoroughly investigated.

13 Q And so when you say "we", you're
14 referring to work that the homicide squad
15 did, correct?

16 A Yes.

17 Q Not work you were necessarily
18 individually involved in?

19 A I was CO, so I was kept up to
20 date.

21 Q Primarily by Sargeant Doyle,
22 correct?

23 A Correct.

24 Q And so it sounds like the
25 primary reason you don't believe Jerry

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1 McElhone
2 Steuerman was involved was because of the
3 reports you were getting from Sargeant
4 Doyle about the investigative work that he
5 and others developed to rule Steuerman out
6 as a suspect, correct?

7 A That's part of it. But also
8 there was the crime scene itself. The
9 confession.

10 Q I --

11 MR. MITCHELL: Let him finish
12 his answer. He wasn't done and then
13 you can go one by one.

14 MS. FREUDENBERGER: I want to
15 take them one by one.

16 MR. MITCHELL: That's fine.
17 Continue your answer.

18 Q Are you still answering the
19 question?

20 A Yes, I understand. It was also
21 what we were able to ascertain from the
22 crime scene investigation, from the
23 confession, from the blood evidence,
24 through the totality of the case,
25 Steuerman wasn't there.

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1 McElhone

2 Q So now let's go back and go
3 through one by one the reasons that you
4 have just given me.

5 One reason that you have given
6 me is the crime scene. What about the
7 crime scene causes you to believe that
8 Steuerman was not involved in the Tankleff
9 homicides?

10 A It was the type of scene that
11 you wouldn't expect a stranger to come in
12 and commit the murders. He was there
13 until 3 o'clock. According to other
14 people, friends if you will, that they
15 were cordially playing a card game. He
16 left. He was alibied by his daughter
17 coming home at 3:15, and the crime scene
18 had to happen after that.

19 There was the blood evidence.
20 It was the inconsistency of Marty's
21 statements.

22 Q Let's stick with the crime scene
23 for a second.

24 You said it is the kind of scene
25 that you didn't expect a stranger to come

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MARTIN TANKLEFF vs. SUFFOLK COUNTY

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1 McElhone

2 into.

3 Jerry Steuerman wasn't a
4 stranger of the Tankleffs obviously. He
5 was in their house at 3 a.m.

6 A Yes.

7 Q So what is it about not
8 expecting a stranger in the crime scene
9 that leads to you believe that Jerry
10 Steuerman wasn't involved?

11 A He was already home at 3:15,
12 when probably anywhere between there and
13 6:11 I think it is that the police are
14 called that the crime happened, so he
15 wouldn't be there. The door I believe was
16 unlocked. There was no forced entry.
17 There was nothing taken from the crime
18 scene. There was no burglary.

19 Q Well, wouldn't all of those
20 facts suggest that it was somebody that
21 was known to the Tankleffs?

22 A Probably a family member who was
23 undisturbed during this terrible attack.

24 Q Or Jerry Steuerman who had been
25 there at 3 o'clock that morning and was

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MARTIN TANKLEFF vs. SUFFOLK COUNTY

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1 McElhone

2 last to leave the house, correct?

3 MR. MITCHELL: Objection to the
4 form.

5 You can answer?

6 A What would that do for him?

7 Because he was in the house?

8 Q You've told me the fact that the
9 door was unlocked and it didn't appear
10 like a stranger had come into the home
11 suggest to you that Jerry Steuerman wasn't
12 involved. And Jerry Steuerman wasn't a
13 stranger. He was there at 3 o'clock in
14 the morning that morning, so I'm confused
15 about what about the crime scene suggested
16 to you that Steuerman wasn't involved?

17 A It didn't indicate -- it
18 indicated to me that there was somebody
19 inside the house and we knew Jerry
20 Steuerman had gone home. So that's the
21 one point I was making on that.

22 Q Couldn't Jerry Steuerman have
23 left the door unlocked when he left?

24 MR. MITCHELL: Objection to the
25 form.

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1 McElhone

2 You can answer.

3 A Possibly.

4 Q And the way you knew Jerry
5 Steuerman had gone home was because of his
6 alibi?

7 A Right.

8 Q And his alibi was his daughter?

9 A Right. And before that, I think
10 the people at the card game said they had
11 all left together, and he was the last one
12 to leave with the next to last person.

13 Q So it sounds like you said two
14 different things there: That the people
15 at the card game said he was the last to
16 leave and some said he was the next to
17 last to leave?

18 A I think it was the next to last
19 guy said he and Jerry were the last to
20 leave, and shortly thereafter his daughter
21 provided that alibi that he had to knock
22 on the door to get in.

23 Q The guy that said he was the
24 last to leave said that Jerry was still
25 there?

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MARTIN TANKLEFF vs. SUFFOLK COUNTY

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1 McElhone

2 A I thought they were leaving
3 almost together, that Jerry was right
4 behind him.

5 Q So in your mind, Jerry's alibi
6 was corroborated by the fact that somebody
7 had seen him leave the card game; is that
8 correct?

9 A That was his alibi and finished
10 up with his daughter saying he arrived 10
11 or 15 minutes later.

12 Q And certainly in the course of
13 your career as a detective and supervisor,
14 you would agree that people sometimes get
15 their family members as false alibis,
16 would you not?

17 A Yes.

18 Q And Jerry Steuerma's alibi,
19 part of his alibi was his daughter Bari,
20 correct?

21 A Correct.

22 Q So if you learned, in fact, that
23 none of the other card players had seen
24 Jerry Steuerma leave the Tankleffs' house
25 and drive away that night, that might have

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MARTIN TANKLEFF vs. SUFFOLK COUNTY

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1 McElhone
2 caused you to -- that would cause you to
3 question his daughter's alibi; is that
4 correct?

5 MR. MITCHELL: Object to the
6 form.

7 You can answer.

8 A It wouldn't have been a major
9 question. Everybody agreed that it was
10 around 3 o'clock that the game broke up,
11 and his daughter remembers him knocking on
12 the door around a quarter after.

13 Q So what made you convinced that
14 the daughter's alibi was reliable?

15 A The detectives that interviewed
16 her, and it was almost immediately, it was
17 the next day that they talked him.

18 Q If I committed a crime and I was
19 going to get a family member to provide a
20 false alibi, presumably I would coordinate
21 with them so we would have the same story?

22 MR. MITCHELL: Objection to the
23 form.

24 You can answer.

25 A Yes.

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MARTIN TANKLEFF vs. SUFFOLK COUNTY

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1 McElhone

2 Q That's sort of how it works?

3 A In your scenario, that's how it
4 works.

5 Q It's not just my scenario.

6 You're familiar from your decorated career
7 as a police officer that suspects often
8 get family members to provide false
9 alibis. So in those situations, you would
10 expect them to coordinate their false
11 alibi with a family member, correct?

12 MR. MITCHELL: Objection to the
13 form.

14 You can answer.

15 A If that was the case, yes.

16 Q In other words, the fact that
17 Jerry Steuerman's story was consistent
18 with his daughter's story is not
19 sufficient to give you confidence that his
20 daughter's alibi is credible, correct?

21 MR. MITCHELL: Objection to the
22 form.

23 You can answer.

24 A I was satisfied that the alibi
25 was correct, and it didn't match with what

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MARTIN TANKLEFF vs. SUFFOLK COUNTY

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1 McElhone

2 we were looking at at the crime scene.

3 Q So tell me then how it -- and
4 before we do, you didn't interview Bari
5 Steuerman about the alibi, did you?

6 A No.

7 Q And you didn't interview Jerry
8 Steuerman about the alibi, right?

9 A No.

10 Q You were relying on information
11 reported up the chain of command that made
12 its way to you, correct?

13 A Right.

14 Q You were relying again on
15 determinations that the detectives below
16 you had made, not on personal assessments,
17 correct?

18 A Yes.

19 Q What is it about the crime scene
20 that didn't match Jerry Steuerman?

21 A They matched what Marty Tankleff
22 had told detectives either in the
23 interview or in the statement. That he
24 had woke up, turned on the light, however
25 he had blood on that light switch. All

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MARTIN TANKLEFF vs. SUFFOLK COUNTY

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1 McElhone
2 the physical evidence that was involved.
3 He had used the telephone when he found
4 his father, and the telephone had blood
5 spatter on it, and the wire to the
6 telephone had blood spatter on it
7 indicating it was never touched.

8 So there was enough evidence
9 showing there was a big problem with
10 Marty's version of the story until he
11 ultimately confessed to what he had done
12 which further solidified any suspicion you
13 might have had on Steuerman at that time.

14 Q All right.

15 So first detectives believed
16 that some of the evidence that they
17 observed at the crime scene contradicted
18 the story that Marty gave them initially,
19 correct?

20 A Correct.

21 Q Once Marty confessed, he
22 confessed in ways that matched what
23 detectives had seen at the crime scene
24 that morning, correct?

25 A No. There was a big problem

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MARTIN TANKLEFF vs. SUFFOLK COUNTY

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1 McElhone
2 with that. He was talking about using the
3 telephone.

4 Q No, no, I'm not being clear.
5 I'm talking about once McCready
6 and Ryan finally got the confession, Marty
7 described committing the crimes in ways
8 that were consistent with what McCready
9 and Ryan had already observed at the crime
10 scene that morning, correct?

11 A I don't know that Ryan observed
12 anything.

13 Q You're right.

14 A McCready I believe made a
15 cursory observation.

16 Q But McCready reported to you
17 that the details that Marty was
18 volunteering in the course of giving the
19 confession were consistent with what he
20 had seen at the crime scene, correct?

21 A Yes.

22 Q And you had observed some
23 evidence yourself as well, correct?

24 A Later on in the day I was in the
25 house, if that's what you're talking

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MARTIN TANKLEFF vs. SUFFOLK COUNTY

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1 McElhone

2 about.

3 Q In other words, it was
4 important -- it was important to the
5 detectives --

6 MS. FREUDENBERGER: Well,
7 withdrawn.

8 Q I understand your answer whether
9 Ryan was ever at the crime scene, so we'll
10 just stick with McCready.

11 One of the things that convinced
12 you that Marty's confession was reliable
13 was that McCready reported to you that the
14 way that Marty was describing committing
15 the crimes was corroborated by what
16 McCready had seen in the house that
17 morning.

18 Fair to say?

19 A Are you at the confession point?

20 Q I'm at the confession point,
21 yes.

22 A Parts of it, yes.

23 Q For example, Marty described
24 bludgeoning his father with a barbell,
25 correct?

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1 McElhone

2 A Yes.

3 Q And McCready reported to you
4 that he had seen a barbell in Marty's
5 room?

6 A He didn't report that to me.

7 Q But there were other details in
8 the confession that McCready did relate to
9 you that were consistent with what was in
10 the house that morning?

11 A I think it was more reviewing a
12 supplementary report at that time and
13 since then. He recounted the blood on the
14 light switch, the blood on the telephone,
15 et cetera.

16 Q Now I think we're talking past
17 each other again.

18 It sounds like there are two
19 things that were important to you about
20 the crime scene. One is the
21 contradictions --

22 MS. FREUDENBERGER: Well,
23 withdrawn.

24 Q So Marty told two stories to the
25 police, right?

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MARTIN TANKLEFF vs. SUFFOLK COUNTY

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1 McElhone

2 A Correct.

3 Q First he told the story that
4 morning in which he denied committing the
5 crimes, correct?

6 A I believe he was throwing it all
7 on Mr. Steuerman at that point.

8 Q So when Marty gave his first
9 account to police that morning, he
10 described waking up and unexpectedly
11 finding his parents dead, correct?

12 A In sum and substance, yes.

13 Q Some of the information that's
14 seen in the house contradicted Marty's
15 story, correct?

16 A Correct.

17 Q But then -- and the fact that
18 there were contradictions between Marty's
19 story and what detectives had seen in the
20 house indicated to those members of the
21 homicide squad who were present and
22 discussing it that Marty's story was not
23 reliable, correct?

24 A Yes.

25 Q But then subsequently when Marty

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MARTIN TANKLEFF vs. SUFFOLK COUNTY

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1 McElhone
2 admitted to committing the crimes and
3 described committing them, the converse
4 was true, right: He was describing an
5 account that was consistent with what
6 detectives had seen in the house, correct?

7 A Yes.

8 Q And that's what indicated to the
9 detectives that Marty's story was
10 reliable, correct?

11 A Correct.

12 Q Because if Marty had given
13 another story admitting to the crimes and
14 that story didn't match up with what
15 detectives had seen in the house, then he
16 wouldn't necessarily have been arrested,
17 correct? Or at least you would have had
18 to continue investigating?

19 A Yes, we would have continued
20 investigating. At that point, we were
21 precluded when we were put on notice,
22 there was certainly areas that we would
23 have liked to explore further.

24 Q Of course. And there are always
25 areas that you want to explore further,

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1 McElhone

2 correct?

3 A Correct.

4 Q There was enough by the time --

5 the detectives came back from

6 interrogation, they had enough by the time

7 that they were precluded from questioning

8 Marty further, that was consistent with

9 what they had seen at the scene to justify

10 relying on the confession and going

11 forward with Marty's arrest, correct?

12 A Along with all of the other

13 physical evidence.

14 Q Along with all of the other

15 evidence, correct?

16 A All the physical evidence.

17 Q Correct?

18 A Yes.

19 Q So you mentioned that one of the

20 ways that Marty's first story was --

21 MS. FREUDENBERGER: Withdrawn.

22 Q One of the details in Marty's

23 first story that the detectives believed

24 was contradicted by the crime scene was

25 that he described calling 911 from the

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MARTIN TANKLEFF vs. SUFFOLK COUNTY

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1 McElhone

2 phone in his father's office, correct?

3 A Yes.

4 Q And the detectives believed that

5 the blood on the phone cord would have

6 looked different if Marty had, in fact,

7 placed that call from his father's office,

8 correct?

9 A Correct.

10 Q And another detail in Marty's

11 first story that was contradicted by what

12 detectives observed at the crime scene was

13 the absence of blood on Marty, correct?

14 A That was, yeah.

15 Q And the absence of blood on the

16 door knob to the garage door where Marty

17 claimed to have gone to check and see if

18 his mother's car was there also was

19 contradicted by what the detectives had

20 seen at the crime scene?

21 A Yes, there was no blood on it.

22 Q And the detectives believed that

23 the absence of blood on that door

24 contradicted Marty's story, correct?

25 A Yes.

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1 McElhone

2 Q And those contradictions and
3 others between what was observed at the
4 scene and what Marty was telling the
5 detectives are what indicated to the
6 detectives that Marty's story wasn't
7 truthful, correct?

8 A Correct.

9 Q And by contrast, when Marty gave
10 his confession later that day, he
11 described details that were consistent
12 with the evidence at the crime scene,
13 correct?

14 A Yes.

15 Q He described -- well, he
16 described using a knife next to the
17 watermelon on the kitchen counter,
18 correct?

19 A Correct.

20 Q And detectives had, in fact,
21 observed a knife next to the watermelon on
22 the kitchen counter, correct?

23 A Yes.

24 Q And, in fact, that knife
25 actually had what was later determined to

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MARTIN TANKLEFF vs. SUFFOLK COUNTY

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1 McElhone
2 be watermelon, a pinkish substance visible
3 on it, correct?

4 A I guess so.

5 MR. MITCHELL: Do you know? It
6 is a figure of speech. If you know,
7 say it. If you don't, don't.

8 A No.

9 Q You do know that when McCready
10 and others went into the house on the
11 morning of September 7th, they saw a knife
12 next to a watermelon with a pinkish
13 substance on it, correct?

14 A Yes.

15 Q And Marty described using a
16 barbell to bludgeon his parents. And
17 whether McCready told you he had seen it
18 or not, there was a barbell clearly
19 visible in Marty's room, correct?

20 A Yes.

21 Q And Marty described in the
22 confession showering off the blood on him
23 and on the murder weapons, correct?

24 A I don't recall if that was in
25 the confession.

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1 McElhone

2 Q And also Marty described a
3 struggle with his mother, which was
4 consistent with what the detectives at the
5 crime scene that morning believed the
6 scene in the mother's bedroom showed,
7 correct?

8 A I don't know.

9 Q Let's take a look at Doyle's
10 testimony on that. Let's look at page --
11 take a look, if you would, at page 127 of
12 Robert Doyle's December 8, 2011
13 deposition, line 17 through 129, line 5.

14 (Whereupon, Deposition
15 Transcript of Robert Doyle, December
16 8, 201, was marked as McElhone Exhibit
17 17 for identification, as of this
18 date.)

19 BY MS. FREUDENBERGER:

20 Q By the way, you got to the crime
21 scene on the 7th of September just before
22 McCready left with Marty to go to police
23 headquarters, correct?

24 A I believe so.

25 Q And you were briefed by Doyle

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MARTIN TANKLEFF vs. SUFFOLK COUNTY

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1 McElhone

2 when you got there?

3 A Yes.

4 Q And then you continued -- at
5 some point, you did a walk-through at the
6 crime scene, correct?

7 A After the initial walk-through
8 and it began processing, not before the
9 video and the photographs.

10 Q But you did actually enter the
11 Tankleffs' home on the 7th of September
12 and walk around?

13 A Yes, I did.

14 Q Did you do that with Doyle?

15 A Probably, but I can't recall.

16 Q The detectives had a cell phone
17 at the crime scene that morning, correct?

18 A I believe I had the only car
19 phone there. Maybe someone else did.
20 They were relatively new and very few of
21 them were in the department in 1988.

22 Q But there were a number of calls
23 back and forth between detectives at the
24 scene and McCready and Ryan at
25 headquarters after they had begun

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1 McElhone
2 interrogating Marty, correct?

3 A Yes.

4 Q And during those phone calls,
5 McCready and Ryan were letting Doyle and
6 yourself and others at the scene know what
7 was happening in the interrogation with
8 Marty, correct?

9 A Yes. I think it was more the
10 sergeant, Sergeant Horvath who might have
11 been -- if they are in the interrogation
12 room, I don't think they would be
13 interrupting to call us for too much
14 stuff.

15 Q But either way, information was
16 being relayed between the detectives who
17 were still at the crime scene and McCready
18 and Ryan at headquarters?

19 A And also that we had detectives
20 at Stony Brook Hospital where Mr. Tankleff
21 had been brought to.

22 Q But there was an open channel of
23 communication between the crime scene, the
24 hospital, and McCready and Ryan at
25 headquarters, correct?

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1 McElhone

2 A Yes.

3 Q And who -- was it you or was it

4 Doyle speaking with Horvath at

5 headquarters while McCready and Ryan were

6 interrogating Marty?

7 A It was probably both of us.

8 Q And either you or Doyle, whoever

9 was speaking indirectly with McCready and

10 Ryan through Sergeant Horvath, were

11 communicating additional information

12 gathered at the crime scene as it was

13 collected and noted and observed, correct?

14 A No. It was more to get what was

15 coming out of the interrogation. At that

16 point, I probably hadn't been in yet.

17 Q What do you mean it hadn't been

18 in yet?

19 A Into the house yet. I was

20 waiting, as I said, for the videotaping,

21 it was a rather large home, and processing

22 to begin.

23 Q But Doyle had been in the house,

24 correct?

25 A I don't know.

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1 McElhone

2 Q If Doyle says he was, you

3 wouldn't dispute that?

4 A No.

5 Q You don't know one way or the

6 other whether Doyle was communicating to

7 McCready and Ryan what he had observed at

8 the crime scene, correct?

9 A Right.

10 Q He could have been; he might not

11 have been?

12 A That is a good answer.

13 Q If Doyle had been at the crime

14 scene and made observations of what he had

15 seen, he would be making sure that

16 McCready and Ryan were informed as he was,

17 correct?

18 A If it was pertinent, yes.

19 Q There would be no reason not to

20 have -- well, you would want McCready and

21 Ryan to know as much information as

22 possible while they are interrogating

23 Marty, correct?

24 A I don't know how much would be

25 available at that point. It was a rather

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1 McElhone
2 extensive crime scene search. I think
3 they kept it a couple of days.

4 Q But you would want them to know
5 everything that was known to the
6 detectives on the scene so that they could
7 either use it in the interrogation of
8 Marty or test the reliability of what
9 Marty was telling them?

10 A If it was pertinent, yes.

11 Q And when you say "pertinent",
12 you mean if the information at the scene
13 gave indicia of how the crimes may have
14 been committed, correct?

15 A Correct.

16 Q This is Doyle's testimony marked
17 McElhone 17, and if you would read what I
18 have bracketed, page 127, line 17 through
19 page 129, line 5.

20 (Witness reviewing document)

21 A Okay.

22 Q Does that section of testimony
23 that you just read refresh your
24 recollection that at least Doyle believed
25 on the morning of September 7th that the

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1 McElhone
2 crime scene in Arlene Tankleff's bedroom
3 indicated that she had struggled with her
4 assailant defensively during the attack
5 from a standing position?

6 A Yes.

7 Q And as far as you knew on the
8 7th, that was consistent with what the
9 crime scene in the master bedroom showed,
10 correct?

11 A Yes.

12 Q And you testified at the last
13 day of your deposition, I'm happy to show
14 it to you if you would like to see it,
15 that you learned how information about the
16 process through which Marty's confession
17 was elicited from talking to McCready and
18 Ryan about how it happened and reading
19 their report, correct?

20 A Reading their report at some
21 point later. There probably was a brief
22 discussion about it.

23 Q Okay.

24 And I gather you were satisfied
25 from reading the report and from whatever

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MARTIN TANKLEFF vs. SUFFOLK COUNTY

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1 McElhone
2 oral communications you had that the
3 information in Marty's confession, which
4 tracked what detectives had observed at
5 the crime scene, was volunteered by Marty
6 and not by the detectives, correct?

7 MR. MITCHELL: Object to the
8 form.

9 You can answer.

10 A Yes, I was satisfied.

11 Q And obviously if the details in
12 the confession, like using the barbell and
13 using the knife and the struggle with his
14 mother, had come from McCready and Ryan
15 rather than Marty independently
16 volunteering them, that would cause you
17 concern as a supervisor about the
18 reliability of his confession, correct?

19 MR. MITCHELL: Objection to the
20 form.

21 You can answer.

22 A Yes, it would.

23 Q Because it is improper for
24 detectives to feed a suspect details they
25 believe to be true about a crime rather

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MARTIN TANKLEFF vs. SUFFOLK COUNTY

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1 McElhone
2 than eliciting -- rather than having those
3 details originate with the suspect,
4 correct?

5 MR. MITCHELL: Objection to the
6 form.

7 You can answer.

8 A Yes.

9 Q To feed a suspect details about
10 the crime that the detectives believed to
11 be true would be a grossly improper
12 violation of policy and procedure,
13 correct?

14 MR. MITCHELL: Objection to the
15 form.

16 You can answer.

17 A Yes, it would.

18 Q In this case, if the details in
19 Marty's confession, like the knife and the
20 barbell and the struggle with his mother,
21 had come from McCready and Ryan instead of
22 coming from Marty, that would be
23 completely inappropriate, correct?

24 A Correct.

25 Q And would cause you as a

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1 McElhone
2 supervisor a great deal of concern about
3 the reliability of the confession,
4 correct?

5 A Yes.

6 Q Pursuant to policy and
7 procedure, if McCready and Ryan had
8 improperly fed Marty details about the way
9 the crime had occurred, they certainly
10 would have had an obligation to document
11 that fact and report it to their
12 supervisors and the prosecution, correct?

13 A If they did that?

14 Q Yes.

15 A Would they document it
16 somewhere?

17 Q Would they have had an
18 obligation to document and disclose it to
19 their supervisors and to the prosecutor?

20 A Yes.

21 Q And obviously McCready and Ryan
22 never reported to you that they had done
23 that in this case, correct?

24 A They did not, no.

25 Q And actually Doyle never

JOHN MCELHONE
MARTIN TANKLEFF vs. SUFFOLK COUNTY

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1 McElhone
2 reported to that you the details in the
3 confession came from McCready and Ryan and
4 not Marty, correct.

5 MR. MITCHELL: Objection to the
6 form.

7 You can answer.

8 A No.

9 Q I want to go back to Steuerman
10 now.

11 Was there anything other than
12 Marty's confession -- I think even more
13 direct than that.

14 Was there anything other than
15 the information that came from Marty,
16 Jerry Steuerman's alibi comprised of
17 whatever the poker player said and his
18 daughter, and the fact that the
19 information gleaned from the crime scene
20 supported Marty's, corroborated Marty's
21 confession, and most important the reports
22 from those below you that they had
23 investigated Steuerman as a suspect and
24 ruled him out, anything else that
25 contributes to your belief as you sit here

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MARTIN TANKLEFF vs. SUFFOLK COUNTY

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1 McElhone
2 today that Jerry Steuerman didn't
3 participate in these crimes?

4 A Again, as I mentioned, he was
5 cross examined for three days on the stand
6 and no other evidence has ever come
7 forward to indicate anything different.

8 Q Well, that's not really true,
9 right?

10 A Are you talking about that
11 anonymous caller?

12 Q No. I'm talking about, whether
13 you credited or not, the admissions that
14 Creedon, Harris and Kent made at various
15 points in time are new information,
16 certainly weren't known to the homicide
17 detectives investigating the Tankleff
18 murders back in the late 80s, correct?

19 MR. MITCHELL: Objection to the
20 form.

21 You can answer.

22 A Correct.

23 Q So that is new evidence that's
24 come forward linking Jerry Steuerman to
25 the crimes whether you believe it or not?

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MARTIN TANKLEFF vs. SUFFOLK COUNTY

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1 McElhone

2 A I don't recall Jerry Steuerman's
3 involvement with those three.

4 Q So you never heard that, in
5 fact, it was Jerry Steuerman who hired
6 those three to carry out the murders on
7 the Tankleffs?

8 A I heard that was a theory that
9 was espoused by, I guess, the defense
10 here, but not that -- no, I haven't.

11 Q Back in the late 80s, homicide
12 was just -- talking about the
13 organizational structure of the Suffolk
14 County Police Department -- homicide was
15 within the major crimes bureau, correct?

16 A Correct.

17 Q And obviously the detective
18 division as well?

19 A Yes.

20 Q So in terms of the chain of
21 command, homicide fell under the office of
22 the chief of detectives, correct?

23 A Through the major crime bureau.

24 Q And missing persons fell under
25 the juvenile and missing persons section?

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MARTIN TANKLEFF vs. SUFFOLK COUNTY

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1 McElhone

2 A I'm not quite sure who their
3 bureau chief was. Was there a bureau
4 above them?

5 Q They weren't under the office of
6 the chief of detectives missing persons,
7 correct?

8 A You know, I'm not quite sure. I
9 know they made detective shortly
10 thereafter, and maybe then they were not
11 chief detectives. If you have a chart, I
12 could help you out.

13 Q I have a chart, but it doesn't
14 matter.

15 When did you leave the homicide
16 squad?

17 A February of 1989.

18 Q Where did you go from there?

19 A I was promoted to captain. I
20 stayed about a month, month-and-a-half to
21 break in my successor, and then I went to
22 the Second Precinct as the executive
23 officer, Huntington, New York.

24 Q So for the approximately two
25 years that you were in charge of the

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1 McElhone
2 homicide squad, how many missing persons
3 investigations other than the missing
4 person's investigation into Jerry
5 Steuerman was homicide actively involved
6 in?

7 A I can't recall any others, but
8 there are incidents where if it is a very
9 suspicious circumstance, we will either
10 shadow it or pick it up.

11 Q But you can't think of any
12 others as you sit here today?

13 A No. Obvious drowning cases, one
14 that's usual, somebody sees somebody go
15 into the water in, say, Smith's Point, and
16 technically they're missing, but we know
17 after a day or two what's going to happen,
18 and we'll maybe pick it up early and wait
19 for the inevitable or never get an answer.

20 Q As you sit here today, can you
21 think of any specific missing persons
22 investigation that homicide was actively
23 involved in during the two years that you
24 were commander of the homicide squad?

25 A No, I can't recall.

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1 McElhone

2 Q Who made the decision that
3 homicide was going to stay involved in
4 this missing persons investigation?

5 A I certainly had a hand in it,
6 but I had to talk with my superiors and
7 others within the department, and we
8 talked with the homicide district
9 attorney's bureau, and they were concerned
10 so we decided we would handle it.

11 But actually it was more of a
12 we'll do the investigative part of it, but
13 missing persons will handle press
14 conferences, and as you showed me, their
15 phone number was broadcast if anybody has
16 any information regarding what happened to
17 Jerry Steuerman, blah, blah, blah.

18 Q But homicide was doing the
19 investigation?

20 A Yes. If it came to an
21 interview, we were going to do it.

22 Q What were the factors that went
23 into that decision?

24 A Pretty much the name recognition
25 of Mr. Steuerman, the ominous letter that

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MARTIN TANKLEFF vs. SUFFOLK COUNTY

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1 McElhone
2 he left with his attorney to be opened in
3 case something happens to me, and there
4 was a couple of other circumstances like
5 that.

6 Q What are the other couple
7 circumstances like that that you are
8 referring to?

9 A Just the way the car was left
10 running in a very public place. People he
11 would have contacted, his daughter every
12 day and she hadn't heard from him.

13 Q So in other words, is your
14 testimony that homicide stepped in on this
15 missing persons investigation because it
16 looked like Jerry Steuerman may have been
17 the victim of a homicide?

18 A That's possible.

19 Q Is that why homicide got
20 involved?

21 A There were a couple of factors
22 going on. Of course, there was the very
23 public Jerry Steuerman being offered up by
24 Newsday and family members and Marty
25 initially as the real killer, the suspect.

JOHN MCELHONE
MARTIN TANKLEFF vs. SUFFOLK COUNTY

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1 McElhone

2 Q So what about the name
3 recognition as you termed it would cause
4 homicide to get involved?

5 A Well, you knew at some point
6 there was going to be a trial and a
7 hearing, and he could very well be someone
8 that they would want to talk to. As I
9 mentioned earlier, we put him on the stand
10 for three days for defense counsel to find
11 out what they had to find out.

12 Q So in other words, you knew that
13 Steuerman might be an important --
14 Steuerman might actually be important to
15 Marty's defense, correct?

16 A Well, he was a person of
17 interest in this case, sort of offered up
18 by the defense people. We had looked at
19 him already. We had that call from
20 missing persons that he might have been
21 doing drugs with his son and that might be
22 the reason for his disappearance.

23 Q But it sounds like --

24 A There were enough questions that
25 we thought -- and we were already familiar

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MARTIN TANKLEFF vs. SUFFOLK COUNTY

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1 McElhone
2 with Mr. Steuerman from having been in,
3 what was it a week or eight days. So it
4 was current, rather than have to tell
5 anyone cold from missing persons, we would
6 take it from there.

7 Q And it sounds like what you're
8 saying is that one reason that homicide
9 stepped in is because homicide believed
10 that Steuerman might actually be somebody
11 who Marty's defense would want an
12 opportunity to question and explore,
13 correct?

14 A That was certainly one of our
15 thoughts, yes.

16 Q So in a sense, homicide was
17 actually looking out for Marty's interests
18 in making sure Steuerman was recovered and
19 making him available to the defense,
20 correct?

21 A That's your statement.

22 Q I'm asking you. I don't care
23 about my statements, I'm asking you.

24 A He was a person of interest to
25 use the term that everybody is using now.

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MARTIN TANKLEFF vs. SUFFOLK COUNTY

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1 McElhone
2 He was current in our case. He wasn't a
3 suspect at this point. We had Marty
4 arrested, as I mentioned earlier. We had
5 ruled him out earlier as a suspect from
6 the initial day of the murder, but there
7 was enough questions swirling around him,
8 so let's get to the bottom of this and
9 figure out what happened.

10 Q Okay. But what I want to know,
11 because it sounded like this is what
12 you're telling me, and maybe it is not, so
13 I want to make sure I understand.

14 Was one reason that homicide got
15 involved in the efforts to locate Jerry
16 Steuerman to make sure that Marty's
17 defense was able to have a fair
18 opportunity to explore whether Steuerman
19 was involved?

20 A As it turned out, that's exactly
21 what happened, but I knew it was a concern
22 of Mr. Jablonsky's and ours that this
23 man's name is going to be bantered about
24 back and forth so let's put it to rest and
25 find them.

JOHN MCELHONE
MARTIN TANKLEFF vs. SUFFOLK COUNTY

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1 McElhone

2 Q So what I'm trying to get at is

3 the nature of your concern.

4 Was one of your concerns that
5 homicide had already had an opportunity to
6 consider him a suspect and ruled him out,
7 and Marty's defense hadn't yet had the
8 opportunity so you wanted to make sure he
9 was available to them.

10 Was this a concern of yours or
11 was it not?

12 A I wasn't really concerned about
13 Marty's defense as much as that this would
14 be an issue in any given trial or anything
15 that would transpire in the future. So
16 let's have him present, let's find out
17 what happened here in the off chance that
18 this could be a suicide or a kidnap
19 investigation.

20 Q So if it turned out to be a
21 suicide or a homicide or a kidnapping
22 investigation, then those would be good
23 reasons for homicide to be investigating
24 anyway, correct?

25 A Sure.

JOHN MCELHONE
MARTIN TANKLEFF vs. SUFFOLK COUNTY

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1 McElhone

2 Q That's not the kind of
3 missing -- missing persons doesn't have
4 the resources to thoroughly investigate
5 kidnappings, homicides, correct?

6 A No.

7 Q But homicide does, right?

8 A Yes.

9 Q And in addition, you understood
10 that Marty's defense was likely going to
11 involve trying to pin this on Steuerman
12 and it was going to make the homicide
13 prosecution harder if Steuerman wasn't
14 available to rebut that defense, correct?

15 MR. MITCHELL: Objection.

16 You can answer.

17 A That really wasn't my concern.
18 He was a person of interest. Somebody
19 that had been mentioned from the very
20 first day, that as you mentioned family
21 members were talking about. I think even
22 the press at that point still liked to
23 bring in but what about this guy. So it
24 was something that would have to be
25 resolved. The best way to resolve this

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MARTIN TANKLEFF vs. SUFFOLK COUNTY

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1 McElhone

2 was to find him and bring him back.

3 Q Obviously, if he went to trial

4 and Marty's defense was Steuerman did this

5 and Steuerman had faked his own death and

6 fled the jurisdiction and was nowhere to

7 be found, that would have looked -- that

8 would have made Marty's defense stronger

9 and the prosecution's case harder?

10 A You're the defense attorney. I

11 guess so.

12 Q And that was your concern in

13 going out and trying to track down

14 Steuerman?

15 A No. It was to resolve the issue

16 what's going on here. This is the same

17 fellow that's being offered up as the man

18 who did it publicly and by the defense at

19 this point, and it was under suspicious

20 circumstances. We had the letter with his

21 attorney, he hasn't contacted family

22 members, his car was left running in a

23 public parking lot.

24 Q I hear what you are saying. It

25 had to be resolved and it wasn't clear

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MARTIN TANKLEFF vs. SUFFOLK COUNTY

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1 McElhone
2 exactly what had happened.
3 You're not telling me that it
4 never came up in any of the conversations
5 about homicide getting involved in the
6 missing persons investigation that it was
7 going to make it much harder for this
8 prosecution if Jerry Steuerman had faked
9 his own death and disappeared by the time
10 that Marty's defense stood up at trial and
11 said Jerry Steuerman did it and Marty
12 Tankleff didn't? Of course it did, right?
13 I don't want to put words in your mouth.
14 Tell me.

15 A My thought was never to provide
16 the defense with a better witness. This
17 just had to be resolved. This is somebody
18 who is in the case from day one, from the
19 mouth of the defendant from the very first
20 time we talked to him to at this point
21 between the newspaper and family members.
22 And couple that with the circumstances of
23 his disappearance, it was something that
24 we wanted to resolve. It wasn't that, oh,
25 this will make our prosecution better or

JOHN MCELHONE
MARTIN TANKLEFF vs. SUFFOLK COUNTY

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1 McElhone
2 the defense better at any given point.
3 Q Okay.
4 But it would have looked
5 terrible for the prosecution if Marty was
6 saying Steuerman did this and Steuerman
7 faked his own death and was nowhere to be
8 found, correct?
9 A I suppose it would.
10 Q And that was one reason, among
11 others, that homicide got involved to try
12 find Steuerman and track him down,
13 correct?
14 A No, that was never my intention.
15 Q Is that one issue that came up
16 in the conversations about homicide
17 getting involved in the missing persons
18 investigation?
19 A No, not that I recall.
20 Q Not that you recall.
21 Nobody ever said, hey, you know
22 what, it's going to look bad for the
23 prosecution if Steuerman faked his own
24 death and isn't around at the time of
25 trial?

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1 McElhone

2 A When we did track him to
3 California, I know Mr. Jablonsky wanted to
4 come along from the district attorney's
5 office. Perhaps that was his thought of
6 the thing.

7 Q But that never occurred to
8 anybody in the police department?

9 A Not really. Let's find this
10 guy, let's resolve this disappearance,
11 this mysterious disappearance only a week
12 after this murder, and we did. We found
13 him and brought him back, and the defense
14 had him on the stand for three days.

15 Q And nobody ever spoke a word
16 about the fact that it would make your
17 case look better if Jerry Steuerman was
18 here after having fled the jurisdiction
19 after faking his own death?

20 A Not to me once.

21 Q Not once?

22 A Not once.

23 Q And it never crossed your mind?

24 A No.

25 Q Really?

JOHN MCELHONE
MARTIN TANKLEFF vs. SUFFOLK COUNTY

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1 McElhone

2 A Really. I'm under oath.

3 Q Believe me I know.

4 You didn't go out to California
5 with Doyle, McCready and Jablonsky, did
6 you?

7 A No.

8 Q And you understood that Doyle
9 and McCready had thoroughly questioned
10 Steuerman out in California on the way
11 back, correct?

12 A Yeah.

13 Q And I gather they reported to
14 you that Steuerman had adequately
15 explained his disappearance and absence?

16 A Under his state of mind. It was
17 kind of an irrational thought to get away
18 from all of the pressures that he had felt
19 at the time.

20 Q But you never spoke with -- have
21 you ever interviewed Steuerman directly?

22 A No.

23 Q So you're relying on McCready's
24 and Doyle's report?

25 A Yes. They spent a lot of time

JOHN MCELHONE
MARTIN TANKLEFF vs. SUFFOLK COUNTY

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1 McElhone
2 with him, a long plane ride back, and they
3 were thoroughly convinced that there was
4 nothing more to it than him being flighty.

5 Q And they represented to you that
6 they had seriously explored again whether
7 he could have been involved in the crimes,
8 correct?

9 A Yes, exactly. What are you
10 doing out here; what the heck is going on.

11 Q And they told you that they had
12 reconsidered actually whether he should be
13 considered a suspect in the case because
14 of his disappearance, correct?

15 A No, they didn't say that to me.

16 Q They didn't say that to you?

17 A No.

18 Q I understand they didn't tell
19 you that he should be considered a
20 suspect, but they reported to you that
21 they had reconsidered in the course of
22 interviewing him whether he should be
23 looked at as a suspect and concluded he
24 should not?

25 A That was already a conclusion

JOHN MCELHONE
MARTIN TANKLEFF vs. SUFFOLK COUNTY

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1 McElhone
2 before, but this recent event did nothing
3 more to change their opinion. As a matter
4 of fact, it reinforced it because they had
5 so much time talking with him about all
6 this stuff.

7 Q So they actually revisited all
8 of the potential areas of concern with
9 Steuerman and were even more convinced
10 after he faked his own death that he had
11 nothing to do with the crimes?

12 A They had two days with him or at
13 least a day-and-a-half. They were in each
14 other's company. Everybody was very free
15 with discussion on anything that came
16 along.

17 Q That's what McCready and Doyle
18 reported to you, that everybody was free
19 with discussion?

20 A Yes.

21 Q During the time that they spent
22 with Steuerman on the way back?

23 A If anybody had any doubt, they
24 were reinforced.

25 Q That's what McCready and Doyle

JOHN MCELHONE
MARTIN TANKLEFF vs. SUFFOLK COUNTY

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1 McElhone

2 said to you?

3 A Sum and substance.

4 Q Sum and substance, they reported

5 to you we have explored everything, if

6 there were ever any doubts about whether

7 he was involved now after faking his own

8 death and fleeing to California, and us

9 going out there to track him down, we are

10 absolutely certain he had nothing to do

11 with the crimes?

12 A Yes.

13 Q That's what McCready and Doyle

14 reported to you when they got back from

15 California, correct?

16 A Yes.

17 MS. FREUDENBERGER: Let me just

18 talk to these guys for a few minutes.

19 MR. MITCHELL: Sure. You want

20 us to walk out.

21 MS. FREUDENBERGER: Sure.

22 (Thereupon, a recess was taken,

23 and then the proceedings continued as

24 follows:)

25 MS. FREUDENBERGER: So McElhone

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MARTIN TANKLEFF vs. SUFFOLK COUNTY

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1 McElhone

2 16 is now the correct version of the
3 missing person's file.

4 BY MS. FREUDENBERGER:

5 Q Chief McElhone, would you
6 confirm that this appears to the missing
7 person investigation file on Jerry
8 Steuerman?

9 A It's a combination. It's a
10 missing person file, some authored by
11 missing persons people and some authored
12 by homicide squad.

13 Q And no reason to dispute the
14 authenticity of any of the documents
15 contained in that file?

16 A No.

17 Q Fall of 1988, it was a busy time
18 for the homicide squad?

19 A 1988 was a very busy year.

20 Q And you sent two experienced
21 detectives to California along with the
22 prosecutor to track down a missing person,
23 correct?

24 MR. MITCHELL: Object to the
25 form.

JOHN MCELHONE
MARTIN TANKLEFF vs. SUFFOLK COUNTY

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1 McElhone

2 You can answer.

3 A A detective and his supervisor.

4 Q Excuse me, a detective and a
5 supervisor?

6 A Yes.

7 Q How many sergeants did you have
8 supervising the detectives in the homicide
9 squad at that time?

10 A Four.

11 Q So you sent, at this busy time
12 in the fall of 1988, you sent one of your
13 four homicide sergeants to California
14 along with a homicide detective and an
15 assistant district attorney to track down
16 a missing person, correct?

17 A Correct.

18 Q A missing person who at this
19 time wasn't actually missing, he had been
20 located, correct?

21 A There was a phone call with
22 pistacio that led us to believe that this
23 was him for sure, and we were able to
24 track down some of his aliases that he was
25 using checking into hotels. But we didn't

JOHN MCELHONE
MARTIN TANKLEFF vs. SUFFOLK COUNTY

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1 McElhone
2 have him cold right there, we had to look.
3 Q And Jerry Steuerman actually
4 used aliases fairly regularly, correct?
5 A Yes.
6 Q Detective Carmody actually
7 tracked down somebody traveling under one
8 of Jerry Steuerman's aliases from San
9 Francisco to LA who bought a plane ticket,
10 a one-way ticket all in cash, correct?
11 A Yes.
12 Q And the working theory was that
13 that was, in fact, Jerry Steuerman,
14 correct?
15 A I guess so.
16 Q And he was alive?
17 A I haven't reviewed this, yes.
18 Q And at the point where you sent
19 one of your four homicide sergeants and a
20 homicide detective with the district
21 attorney to track down Jerry Steuerman, a
22 missing person, your testimony is that he
23 was not a suspect, he was simply a person
24 of interest in your investigation,
25 correct?

JOHN MCELHONE
MARTIN TANKLEFF vs. SUFFOLK COUNTY

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1 McElhone

2 MR. MITCHELL: Object to the
3 form.

4 You can answer.

5 A As well as a missing person
6 under suspicious circumstances.

7 Q Well, were you going out to
8 track him down because he was a person of
9 interest in your investigation or because
10 he was a missing person under suspicious
11 circumstances?

12 MR. MITCHELL: Object to the
13 form.

14 You can answer.

15 A An equal amount of both.

16 Q So it was equally important to
17 you that he was a missing person under
18 suspicious circumstances as the fact that
19 he was playing a role in your
20 investigation, correct?

21 A Correct.

22 Q And neither one of those things
23 was more important than the other?

24 A No. I think one absent the
25 other wouldn't have been a problem.

JOHN MCELHONE
MARTIN TANKLEFF vs. SUFFOLK COUNTY

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1 McElhone

2 Q So even if he had been involved
3 in your investigation, just because he was
4 a missing person under suspicious
5 circumstances, you might have sent one of
6 your four sergeants, a homicide detective
7 and a DA out to track him down?

8 MR. MITCHELL: Object to the
9 form.

10 You can answer.

11 A No.

12 Q No. Okay.

13 A If his name wasn't involved in
14 our case at all and he wasn't somebody
15 that we already interviewed, no.

16 Q No way you would have sent one
17 of your sergeants. a detective and a DA to
18 track him down because he was a missing
19 person?

20 A I can't send the DA anywhere.

21 Q Jablonsky sent himself and you
22 sent McCready and Doyle?

23 A Yes.

24 MR. MITCHELL: Objection to the
25 form.

JOHN MCELHONE
MARTIN TANKLEFF vs. SUFFOLK COUNTY

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1 McElhone

2 Q You wouldn't have done that if
3 Steuerman was a missing person under
4 suspicious circumstances?

5 A If it was Joe Blow?

6 Q Right.

7 A Probably not.

8 Q Is there any chance?

9 A I think we would need a little
10 bit more. If we're getting threatening
11 phone calls or something like that, we
12 might just enlist the aid of whatever
13 police agency is in California to try and
14 locate and make sure he is okay.

15 Q Like the LAPD?

16 A Yes.

17 Q And the LAPD is probably
18 equipped to track down missing persons?

19 A I believe so, sure.

20 Q You mentioned that you sent
21 them -- you sent McCready and Doyle out to
22 get Steuerman because this had to be
23 resolved, you wanted to resolve the whole
24 thing, correct?

25 A Yes.

JOHN MCELHONE
MARTIN TANKLEFF vs. SUFFOLK COUNTY

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1 McElhone

2 Q Once you figured out Steuerman
3 was alive, what was left to be resolved?

4 A Interview him, under what set of
5 circumstances happened here. Was he
6 forced to go out there, was there
7 something else involved. So we had to
8 talk to him.

9 Q What in particular were you
10 concerned about?

11 A I don't know. It was a mystery.
12 That's why we had to resolve it.

13 Q It was a mystery?

14 A Yes, certainly bizarre
15 circumstances.

16 Q And obviously one possibility
17 that crossed everybody's mind was that
18 maybe Jerry Steuerman did have something
19 to do with this crime and that's why he
20 faked his own death and fled the
21 jurisdiction while Seymour Tankleff was
22 still alive, correct?

23 MR. MITCHELL: Objection to the
24 form.

25 You can answer.

JOHN MCELHONE
MARTIN TANKLEFF vs. SUFFOLK COUNTY

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1 McElhone

2 A Other people might have thought
3 that.

4 Q That is certainly something that
5 came up in conversations, correct?

6 A Not that I was involved in.

7 Q None that you even heard about?

8 A No.

9 Q So you never heard anybody say
10 anything about, hey, you know what,
11 Seymour Tankleff was expected to die and
12 he is still alive and Jerry Steuerman
13 faked his own death and fled the
14 jurisdiction, maybe he was involved?

15 A The press was running wild with
16 that kind of stuff. Sure, the
17 scuttlebutt, you know, general public
18 might have been there, but nobody within
19 the homicide squad was thinking he is the
20 real killer.

21 Q Nobody in the homicide squad was
22 even considering that possibility?

23 A Not that I'm aware of, no.

24 Q In retrospect, do you think
25 somebody in the homicide squad should have

JOHN MCELHONE
MARTIN TANKLEFF vs. SUFFOLK COUNTY

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1 McElhone
2 considered that possibility?

3 MR. MITCHELL: Objection to the
4 form.

5 You can answer.

6 A No. At that point, we cleared
7 him as a suspect. This new incident
8 raised questions on what the heck is going
9 on here, could there be something else?
10 35 years of police work, you never say
11 never to anything, so that's resolve this.

12 Q You wouldn't say never to the
13 possibility that somebody who owed a guy
14 money, had ties to known criminals, close
15 family ties to known criminals, and faked
16 his own death when the victim of a very
17 serious assault was still alive weeks
18 after the assault, and fled the
19 jurisdiction, could conceivably have been
20 involved? 35 years of police work might
21 tell you that is something that you have
22 to consider, correct?

23 MR. MITCHELL: Object to the
24 form.

25 You can answer.

JOHN MCELHONE
MARTIN TANKLEFF vs. SUFFOLK COUNTY

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1 McElhone

2 A You never say never to anything.

3 Q Would 35 years of police work
4 suggest to you that maybe that is
5 something that you should consider under
6 these circumstances?

7 MR. MITCHELL: Object to the
8 form.

9 You can answer.

10 A Again, we go back to the
11 circumstances of the crime. There is
12 ample evidence and there was -- it was
13 admitted to by the defendant at this
14 point. There was no question in our mind
15 that maybe Jerry Steuerman came in and
16 killed him or had other people come in and
17 kill him.

18 Q I'm not suggesting you should
19 have let Marty out of jail. I'm asking as
20 a very experienced investigator whether
21 you felt that after Steuerman faked his
22 own death while Seymour was still alive
23 and fled the jurisdiction, combined with
24 the fact that he owed Seymour a
25 substantial amount of money, and that he

JOHN MCELHONE
MARTIN TANKLEFF vs. SUFFOLK COUNTY

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1 McElhone
2 had been reportedly involved in drug
3 enterprises with his son who had an arrest
4 history, perhaps you should look into
5 whether he might have been involved in the
6 crime?

7 MR. MITCHELL: Object to the
8 form.

9 You can answer.

10 Q Based on your policing
11 experience, did you believe that this was
12 a possibility to at least consider?

13 MR. MITCHELL: Object to the
14 form.

15 You can answer.

16 A My decision, and it was only --
17 had to be concurred with my superior
18 officers, at this point was there enough
19 questions here that we have to figure out
20 what's going on. So let's investigate
21 this more thoroughly than a missing
22 person's case.

23 Q And that was one of the
24 possibilities were you investigating,
25 correct?

JOHN MCELHONE
MARTIN TANKLEFF vs. SUFFOLK COUNTY

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257

1 McElhone

2 A That he was involved in this
3 case?

4 Q Yes.

5 A No.

6 Q And when you sent one of your
7 four homicide sergeants out with a
8 homicide detective and the district
9 attorney during this busy time for the
10 Suffolk County homicide squad to LA to
11 recover Jerry Steuerman, rather than
12 asking the LAPD to track Steuerman down
13 and confirm that he was, in fact, alive,
14 it never once crossed your mind that you
15 were in any way doing anything to protect
16 your case, correct?

17 MR. MITCHELL: Object to the
18 form.

19 You can answer.

20 A We were going to resolve any
21 kind of doubts. We were going to find out
22 what's going on.

23 Q What kind of doubts were those?

24 A Why did he do it. Is he alive
25 first of all. Why would he decide to flee

JOHN MCELHONE
MARTIN TANKLEFF vs. SUFFOLK COUNTY

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1 McElhone
2 at this point. Maybe somebody was
3 threatening him. I don't know. Maybe
4 somebody involved in the periphery of this
5 case. There was way too many questions.

6 Q Was one of those questions you
7 were trying to resolve whether Jerry
8 Steuerman had anything to do with this
9 crime?

10 A No, not at that point.

11 Q And the reason you weren't
12 trying to resolve that question at this
13 point is because it had been thoroughly
14 investigated and resolved by those below
15 you according to Sargeant Doyle, correct?

16 A Correct.

17 Q Just two more things before we
18 leave.

19 Chief McElhone, could you take a
20 look at the document Bates stamped SCDA
21 8421 and 8422 and confirm for me whether
22 these are press releases issued under your
23 name on September 7, 1988.

24 (Witness reviewing documents)

25 A I don't know about the

JOHN MCELHONE
MARTIN TANKLEFF vs. SUFFOLK COUNTY

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1 McElhone
2 handwritten portion about the police
3 commissioner of Belle Terre. I think that
4 was something that was added.

5 MS. FREUDENBERGER: Let's go
6 ahead and mark these and then I'll ask
7 you some questions about it.

8 A I never put a byline like Belle
9 Terre, New York.

10 (Whereupon, Press Release dated
11 September 7, 1988 at 11:30 a.m., was
12 marked as McElhone Exhibit 18 for
13 identification, as of this date.)

14 (Whereupon, Press Release dated
15 September 7, 1988, was marked as
16 McElhone Exhibit 19 for
17 identification, as of this date.)

18 BY MS. FREUDENBERGER:

19 Q Let's start with McElhone 18.
20 This is a press release dated the 7th of
21 September 1988 at 11:30 a.m.

22 A Yes.

23 Q And at the time, it says "News
24 release" and appears to be on Suffolk
25 County PD's letterhead, correct?

JOHN MCELHONE
MARTIN TANKLEFF vs. SUFFOLK COUNTY

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1 McElhone

2 A Yes.

3 Q And at the bottom it says,
4 "Authority Detective Lieutenant John
5 McElhone, homicide squad"?

6 A Right.

7 Q And you believe that the police
8 commissioner of the Village of Belle Terre
9 was handwritten at the end of the first
10 paragraph before you approved the release
11 of the press release?

12 A Yes. There is nothing else
13 after that.

14 Q Otherwise, does this appear to
15 be an accurate reflection of a press
16 release you issued on September 7, 1988 at
17 11:30 a.m.?

18 A From the overall look of this
19 and the syntax involved, I think this was
20 generated by our public information
21 officer obviously with my consent. I
22 never put a byline like Belle Terre, New
23 York in there. But it is accurate.

24 Q And then take a look at 19, if
25 you will.

JOHN MCELHONE
MARTIN TANKLEFF vs. SUFFOLK COUNTY

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1 McElhone

2 Is that your signature at the

3 bottom of this document?

4 A Yes.

5 Q And is this an accurate copy of

6 a press release issued under your name on

7 September 7, 1988?

8 A The number on the top, what is

9 that SCDA, is that the district attorney's

10 office?

11 Q That's just our tracking

12 mechanism.

13

14 (Continued on the following

15 page to include the jurat.)

16

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JOHN MCELHONE
MARTIN TANKLEFF vs. SUFFOLK COUNTY

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McElhone

A Otherwise, yes.

MS. FREUDENBERGER: That's all

I've got. Thank you very much.

(Time noted: 4:05 p.m.)

JOHN McELHONE

Subscribed and sworn to
before me this day
of , 2014.

JOHN MCELHONE
MARTIN TANKLEFF vs. SUFFOLK COUNTY

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C E R T I F I C A T E

STATE OF NEW YORK)

: SS

COUNTY OF NEW YORK)

I, Adrienne M. Mignano, a

Registered Professional Reporter and Notary

Public within and for the State of New York,

do hereby certify:

That JOHN McELHONE, the

witness whose deposition is hereinbefore set

forth, was duly sworn by me and that such

deposition is a true record of the testimony

given by the witness.

I further certify that I am

not related to any of the parties to this

action by blood or marriage, and that I am

in no way interested in the outcome of this

matter.

IN WITNESS WHEREOF, I have

hereunto set my hand this 10th day of

November 2014.

ADRIENNE M. MIGNANO

JOHN MCELHONE
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DEPOSITION ERRATA SHEET

Our Assignment No. 227414

Case Caption: MARTIN TANKLEFF

vs.

THE COUNTY OF SUFFOLK et al.

DECLARATION UNDER PENALTY OF PERJURY

I declare under penalty of perjury
that I have read the entire transcript
of my deposition taken in the captioned
matter or the same has been read to me,
and the same is true and accurate, save
and except for changes and/or corrections,
if any, as indicated by me on the
DEPOSITION ERRATA SHEET hereof, with the
understanding that I offer these changes
as if still under oath.

SIGNATURE _____ DATE: _____
JOHN McELHONE

Subscribed and sworn to on the ____ day of
_____, 20__ before me,

Notary Public,
in and for the State of _____

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